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[HISTORY: Adopted by the electors of the City of Holland at a special election held on 11-7-1950, under the provisions of the Home Rule City Act. Amendments noted where applicable.]

PREAMBLE

We, the people of the City of Holland, mindful of the ideals and labors of our fathers in founding and developing this community, grateful to Almighty God for the blessings of freedom, peace, health, safety, and justice, and desirous of further securing these blessings to ourselves and our posterity, do hereby ordain and establish this Charter for the City of Holland.

CHAPTER 1
Boundaries and Subdivision of City

Sec. 1.1. Boundaries.

The following described territory, together with all territories that may be annexed thereto, shall be and remain a body corporate under the official name and title of "City of Holland," and shall be subject to the municipal control of said city:

That part of the Township of Holland, in the County of Ottawa, as is embraced in the following description, to-wit: Commencing at the southeast corner of section thirty-two; thence north on the east line of said section thirty-two to the northeast corner of said section thirty-two; thence east along the south line of section twenty-eight, to the west, north and south one-eighth line of section twenty-eight; thence north along the west one-eighth line of said section twenty-eight, and along the west one-eighth line of section twenty-one until it strikes the center of the main channel of Black River; thence along said channel of Black River and of Lake Macatawa in a westerly and southwesterly direction until it strikes the west line of section thirty; thence south along the west line of said section thirty to the southwest corner of said section thirty; thence east along the south line of said section thirty to the quarter post common to sections thirty and thirty-one; thence south along the north and south quarter line of section thirty-one to the south line of said section thirty-one; thence east along the south line of sections thirty-one and thirty-two to the southeast corner of section thirty-two, being the place of beginning, all in township five north, of range fifteen west, the above description being the boundaries of the City of Holland, as heretofore established by the legislature of the State of Michigan.

Sec. 1.2. Wards established and described.

The City of Holland shall consist of six wards, as follows:

(1) First ward. The first ward shall embrace and include all that portion of the said city lying north of the center line of 10th Street within the limits of the City of Holland.

(2) Second ward. The second ward shall embrace and include all that portion of the said city lying between the center line of 10th Street and the center line of 16th Street and the section line between sections 30 and 31 west of the center line of River Avenue within the limits of the City of Holland.

(3) Third ward. The third ward shall embrace and include all that portion of the said city lying between the center line of 10th Street and the center line of 16th Street and east of the center line of River Avenue within the limits of the City of Holland.

(4) Fourth ward. The fourth ward shall embrace and include all that portion of the said city lying south of the center line of 16th Street and west of the center line of Maple Avenue within the limits of the City of Holland.

(5) Fifth ward. The fifth ward shall embrace and include all that portion of said city lying between the center line of Maple Avenue and the center line of Central Avenue and south of the center line of 16th Street within the limits of the City of Holland.

(6) Sixth ward. The sixth ward shall embrace and include all that portion of said city lying east of the center line of Central Avenue and south of the center line of 16th Street within the limits of the City of Holland.

Sec. 1.3. Alteration of ward boundaries.

In the event that the population of any ward or wards of the city shall be shown to exceed that of any other ward by 50%, according to any regular or special federal census, the council shall have the power, by ordinance, to change, alter, or determine the boundaries of any ward or wards of the city in such a manner as to equalize reasonably the population thereof. Territory annexed to the city shall become a part of the ward or wards to which such territory is contiguous as soon as such annexation becomes effective.

Sec. 1.4. Election precincts.

The council shall, by ordinance, establish convenient election precincts which shall comply with the provisions of state law. Until the council shall otherwise ordain, the election precincts of the city as constituted at the time of the adoption of this Charter, shall constitute the election precincts of the city.

CHAPTER 2
General Municipal Powers

Sec. 2.1. General powers of city. [Amend. No. 18, 8-2-1983]

The City of Holland and its officers shall possess and 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 under the constitution and laws of the State of Michigan, 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 Holland 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; to 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.

In addition to the powers possessed by the City of Holland under the constitution and general laws of the State of Michigan, and those set forth throughout and, under proper headings, within this Charter, the City of Holland shall have power with respect to and may, by ordinance and other lawful acts of its officers, provide:

(1) Streets, alleys, etc. — use, regulation, etc., generally. For the use, regulation, improvement, and control of the surface of its streets, alleys, and public ways, and of the space above and below them;

(2) Same—Use by others than owner. For the use, by others than the owner, of property located in streets, alleys, and public places of the city in the operation of a public utility, subject to any limitations imposed by state law;

(3) Same—Plan. For a plan of streets and alleys within the city and for a distance of not more than three miles beyond its limits;

(4) Streams, waters and watercourses. For the use, control, and regulation of streams, waters, and watercourses within its boundaries, subject to any limitations imposed by law;

(5) Sabbath observance. For preventing and punishing violations of the Sabbath day, commonly known as Sunday, and for regulating or forbidding the conduct of business on that day; provided, that any ordinance passed by the council to enforce the provisions hereof shall specifically exempt from its provisions any person who conscientiously believes that the seventh day of the week ought to be observed as the Sabbath and who actually refrains from secular business and labor on that day, provided he disturbs no other person;

(6) Maintaining the peace, etc. For maintaining the peace within the city, and preventing and punishing the disturbance of any religious meeting, congregation, or society, or other meeting which is assembled for any lawful purpose;

(7) Storage and parking of vehicles. For 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 therefor;

(8) Docks for pleasure boats, etc. For the acquiring, construction, establishment, operation, extension, and maintenance of facilities for the docking of pleasure water crafts or hydroplanes, or both, 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 therefor;

(9) Service stations. For regulating, restricting, and limiting the number and locations of oil and gasoline stations;

(10) Buildings and zoning regulations; setback lines. For establishing standards to govern the construction, alteration, equipment, or removal of buildings and structures within the city; the zoning of the city in the manner and for the purpose permitted by law; and, in any zoning ordinance passed or effective in the city, or independently thereof, to regulate and establish the line upon which buildings may be erected on any street, lane or alley in said city, and to prevent such buildings being erected nearer the street than such line;

(11) Trades, occupations and amusements. For the regulation of trades, occupations, and amusements within the city, not inconsistent with state and federal laws, and to prohibit such trades, occupations, and amusements as are detrimental to the health, morals, or welfare of its inhabitants;

(12) Dangerous, offensive, etc., acts, conditions, etc.; nuisances. For 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;

(13) Signs and billboards. For licensing, regulating, restricting, and limiting the number and locations of advertising signs or displays and billboards within the city;

(14) Airports and aircraft. For establishing, acquiring, and operating airports, either within or without its corporate limits, and for regulating all airports located within its boundaries, and, for the purpose of promoting and preserving the public peace, safety, and welfare, for the control and regulation of the use of the air above the city by aircraft of all types, subject to the limitations imposed by law and the limitations expressly hereinafter set forth:

A. No city revenues or funds shall be expended for the acquisition, improvement; maintenance, or operation of an airport, owned by the city, without voter approval except revenues or funds received from any of the following sources or any combination thereof;

(i) Revenues derived by the city from airport operations;

(ii) State and/or federal funds, grants, or reimbursements designated specifically for airport use;

(iii) Monies donated or contributed by business, industry, or the public in general (other than contributions or donations from the city itself or affiliated city agencies);

B. No airport shall be operated or maintained by the city except pursuant to a lease or other contractual agreement with a fixed base operator approved by the city;

C. No acquisition, improvement, or construction of an airport shall commence, or federal or state grants or monies applied for until legally enforceable pledges from business, industry, or the public in general (other than contributions or donations from the city itself or affiliated city agencies) are received by the city representing the aggregate city contribution for such acquisition, improvement, or construction;

(15) House trailers. For the prohibition or regulation of 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.

Sec. 2.2. Exercise of powers.

All powers granted to and possessed by the city shall be exercised as provided in this Charter, by ordinance of the council, or by state law. Where no procedure is set forth in this Charter for the exercise of any power granted to or possessed by the city and its officers, the council may provide a procedure for the exercise thereof by ordinance or resort may be had

to any procedure set forth in any statute of the State of Michigan which has been enacted for the government of any political subdivision of the state or for the exercise of such powers by the state itself.

Sec. 2.3. Intergovernmental contracts.

The city shall have power to join with any governmental unit or agency, or with any number of 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 the city and each such governmental unit or agency.

CHAPTER 3
General Provisions Affecting Officers of the City

Sec. 3.1. Officers to be elected. [Amend. No. 20, 11-6-1984]

The elective officers of the city shall be the mayor and eight councilmen. The mayor and the councilmen at large shall be elected by the vote of the electors of the entire city, and the councilmen representing the wards of the city shall be elected by the vote of their respective wards.

Sec. 3.2. Officers to be appointed.

The appointive officers of the city shall be a city manager, a city attorney, a city auditor, a clerk, a treasurer, an assessor, a fire chief, a police chief, a city engineer, and a constable. Upon the recommendation of the city manager, and to assure the proper administration of city affairs, the council may create additional appointive offices of the city, or may combine any administrative offices in any manner not inconsistent with state law, and prescribe the duties thereof. The creation of any additional administrative office or combination thereof shall not directly or indirectly abolish or diminish the office of city manager, or the responsibilities of that office, as set forth in this Charter. The council shall set the compensation of the city manager and the city attorney. The city manager shall set the compensation of all other appointive officers, within and subject to budget appropriations.

Sec. 3.3. City employees generally.

All personnel employed by the city, who are not elected officers or declared to be appointive officers by or under authority of this Charter, shall be deemed to be employees of the city.

Sec. 3.4. Eligibility for office in city. [Amend. No. 11, 4-7-1969]

Except as otherwise provided in this Charter, an elector of the city shall be eligible to hold elective or appointive office, if he shall be a resident of the city for two (2) years, and shall not be in default to the city or to any school district located within the city; provided, however, that no person shall be eligible for reappointment to the board of public works,

library board or the hospital board if he is then serving his second consecutive full term on such board. A councilman elected from a ward shall have been a resident thereof not less than 20 days prior to his nomination for election to such office. In the case of appointive officers, the council may, by a 2/3 vote, waive the requirement of residence in the city at the time, of appointment; provided, that any person, for whom such requirement is waived, shall become a resident of the city within 90 days following his appointment and shall remain a resident of the city during the entire time that he shall hold office in the city government. Failure so to become a resident of the city and thereafter to be a resident of the city shall create a vacancy in the office to which any such person was appointed.

Sec. 3.5. Vacancies in office generally.

Any city office shall become vacant before the expiration of the term of such office for any one or more of the following reasons:

(a) The occurrence of any event or the doing of any act specified by state law to create a vacancy, or authorizing the governor to remove from public office;

(b) The absence from the city of any officer continuously for more than 60 days without permission of the council;

(c) In the case of the mayor and the members of the council, absence from four consecutive regular meetings of the council, or 25% of such meetings in any fiscal year of the city, unless such absence shall be excused by the council at the time it occurred and the reason therefor entered in the proceedings of the council;

(d) Assumption by the officer of any office which is incompatible with the city office held by him.

Sec. 3.6. Removals by council.

The council may remove any elected officer of the city, or the city attorney, for any one or more of the following reasons:

(a) When, after a hearing thereon, it shall be satisfied from sufficient evidence submitted to it that such officer has failed to perform the duties of his office for 90 days because of physical or mental disability.

(b) When it shall be satisfied from sufficient evidence submitted to it that such officer has been guilty of official misconduct, wilful neglect of, or gross inefficiency in the performance of his duties as officer of the city. The council shall take no action under this provision upon any charges against any officer of the city, until certified copies of such charges and of all supporting affidavits and exhibits have been personally served upon such officer and an opportunity, after at least 15 days' notice, given him to be heard in his defense. No officer who has been removed from office under authority of this provision shall be eligible to election or appointment to any city office for a period of three years from the date of such removal.

Sec. 3.7. Resignations.

Resignations of elective officers shall be made in writing and filed with the clerk and shall be acted upon by the council at its next regular meeting following receipt thereof by the clerk. Resignations of appointive officers shall be made in writing to the city manager, in the case of officers appointed by him, and shall be immediately acted upon by the council or the city manager, as the case may be.

Sec. 3.8. Filling vacancies.

If a vacancy occurs in any elective office, or in any office the appointment to which is made by the council, the council shall, within 30 days after such vacancy occurs, except in the case of the city manager, appoint a person who possesses the qualifications required of holders of said office until the next city election, in the case of elective officers, and for the balance of the term in the case of the city attorney.

If a vacancy occurs in any appointive office other than that of city manager, city attorney, or supervisor, the city manager shall, within 30 days thereafter, appoint a qualified person to fill such vacancy in the manner provided for making the original appointment.

Sec. 3.9. Shortening or extending terms of office.

Except by procedures provided in this Charter, the terms of the elective officials of the city and of officers of the city appointed for a definite term shall not be shortened. The terms of officers of the city may not be extended beyond the period for which any such officer was elected or appointed except that an elective officer of the city shall, after his term has expired, continue to hold office until his successor is elected or appointed, and has qualified.

Sec. 3.10. Additional compensation; increase or decrease of compensation.

The council shall not grant or authorize extra compensation to any city officer, elective or appointive, to any employee, agent, or contractor after the service has been rendered or the contract entered into. Nor shall the salary of any officer, elective or appointive, be increased or decreased after his election or appointment during any fixed term of office for which he was elected or appointed.

Sec. 3.11. Oath of office.

Every officer, elected or appointed, before entering upon the duties of his office, shall take the oath of office prescribed by section 2 of article XVI of the constitution of the state and shall file the same with the clerk, together with any bond which he may be required by this Charter or by the council to give. In case of failure to comply with the provisions of this section within 10 days from the date of his election or appointment, 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.

Sec. 3.12. Surety bonds generally.

Except as otherwise provided in this Charter, the council may require any officer or employee to give a bond, to be approved by the council, conditioned upon the faithful and proper performance of the duties of the office or employment concerned, in such sum as the council shall determine. All such officers or employees who receive, distribute, or are responsible for the city funds shall be bonded. The resignation, removal, or discharge of any officer or employee, or appointment of another person to such office or employment, shall not exonerate such officer or employee or any sureties of such officer or employee from any liability incurred by such officer, employee, or sureties. All official bonds shall be corporate surety bonds and the premiums thereon shall be paid by the city, except as otherwise provided in this Charter. Unless otherwise determined by a 2/3 vote of the council, bonds required by this section shall not be renewed upon the expiration of the terms for which issued, but, in each case, a new bond shall be furnished. No official bond shall be issued for a term exceeding three years. The bonds of all officers and employees shall be filed with the clerk, except that of the clerk himself, which shall be filed with the treasurer.

Sec. 3.13. Business dealings with city.

An officer of the city, who intends to have business dealings with the city, either directly or indirectly, whereby he may acquire from the city any income or benefits other than that provided as remuneration for his official duties, shall file with the city clerk a statement, under oath, setting forth the nature of his interest therein and that his participation therein is to the general welfare of the city; such statement shall be transmitted to the council or the board of the city having to do with such contract, and shall be spread upon the proceedings of the council or such board and published in full therewith. Confirmation of such contract shall be made by a 2/3 vote of the council or the board having jurisdiction thereof. Any contract made with such person other than as above provided shall be void.

Sec. 3.14. Giving of surety bonds, etc., forbidden.

No officer of the city shall give recognizance or give or become surety. Any officer who shall violate the provisions of this section shall be guilty of misconduct in office.

Sec. 3.15. Delivery of office and its effects to successor.

Whenever any officer or employee shall resign, or be removed from office, or the term of office for which he has been elected or appointed has expired, he shall, on demand, deliver to his successor in the office or to his superior, all books, papers, moneys, and effects in his custody which were necessary to or which were obtained as a part of or were necessary to the performance of his duties as such officer or employee. Any person violating this provision shall be deemed guilty of a misdemeanor, and may be prosecuted therefore in the same manner as public officers generally for the like offense under the general laws of the state. Every officer and employee of the city shall be deemed an officer within the meaning and provisions of such general laws of the state for the purpose of this section.

CHAPTER 4
City Council

Sec. 4.1. City governing body; composition.

All legislative or policy forming powers of the city shall be vested in, exercised, and determined by the council consisting of the mayor and the eight councilmen of the city. In all cases where the word council is used in this Charter, the same shall mean the "common council" of the City of Holland and shall be synonymous with any term employed in any state or federal law referring to legislative or governing bodies of cities.

Sec. 4.2. Nomination, election and terms of office of mayor and city councilmen. [Amend. No. 20, 11-6-1984; amend. of 11-19-2004]

Unless modified by a primary election pursuant to Sec. 11.5 of the Charter, at each regular city election, there shall be elected, by the electors of the city at large, a mayor and one councilman from the city at large. One councilman shall be nominated and elected from each of the three of the six wards of the city. Councilmen to be elected from the wards of the city at any election shall be nominated by the electors of their respective wards at the primary election preceding such election. The mayor and one councilman from the city at large shall be nominated by the electors at large at the primary election preceding such regular city election. At the regular city election held in the year 1953, and at the regular city election every fourth year thereafter, councilmen shall be elected from the first, third, and fifth wards of the city. At each other regular city election, councilmen shall be elected from the second, fourth, and sixth wards of the city. The person elected to the office of mayor shall hold office for a term of two years. Each councilman shall hold office for a term of four years. All such terms of office shall commence on and date from the Monday next following the date of the regular city election at which they are elected or on the date the regular city election would have been conducted except for the provisions of Sec. 11.5 of the Charter.

Sec. 4.3. Judge of qualifications of members.

The council shall be the judge of the eligibility and qualification of its own members, subject only to review by the courts.

Sec. 4.4. Remuneration of members of council and mayor.

The mayor and each councilman shall be compensated for his service to the city at the rate of $5 per meeting of the council actually attended by him, but not to exceed the sum of $180 in any fiscal year of the city. The mayor shall also receive $100 per year in addition to the compensation received by him as a member of the council. Such compensation shall be paid quarterly in each case, and, except as otherwise provided in this Charter, shall constitute the only compensation which may be paid to the mayor and to members of the council for the discharge of any official duty for or on behalf of the city during their terms of office.

Upon authorization of the council, reasonable expenses may be allowed to its members when actually incurred on behalf of the city.

Sec. 4.5. Functional duties and powers of mayor.

(a) Insofar as required by law, and for all ceremonial purposes, the mayor shall be recognized as the executive head of the city and shall preside over all meetings of the council and preserve order thereat and shall have and exercise all powers granted to mayors of cities by state law and by this Charter.

(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 of the United States shall require.

Sec. 4.6. Mayor pro tem.

The council shall, at its first regular meeting following each regular biennial city election, select one 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 shall succeed to the office of mayor in case of vacancy in that office. The mayor pro tem shall preside over the meetings of the council during the absence of the mayor, at the call of the mayor, and when the council is convened as a committee of the whole. In the event that a vacancy occurs in the office of mayor pro tem, through advancement to the office of mayor, the council shall appoint one of its elected members to fill such vacancy. Until such time as the council shall so appoint a mayor pro tem, the line of succession of persons who shall act as mayor shall be councilmen according to the numerical order of the wards from which they were elected.

Sec. 4.7. Meetings; quorum; rules; journal; voting; public access to records.

(a) Regular meetings. The council shall provide by resolution for the time and place of its regular meetings and shall hold at least two regular meetings each month. If any time set for the holding of a regular meeting of the council shall be a holiday, then such regular meeting shall be held at the same time and place on the next secular day which is not a holiday.

(b) Special meetings—Generally. Special meetings of the council may be called by the clerk on the written request of the mayor, the city manager, or any two members of the council, on at least six hours written notice to each member of the council, designating the time, place, and purpose of such meeting and served personally or left at his usual place of residence by the clerk or someone designated by him. Notwithstanding the foregoing requirements for the calling of special meetings, any special meeting of the council at which all members of the council are present, or, in the event that one or more of the members may be absent, such member or members have, upon receipt of notice, waived in writing, the requirement that notice may be given at least six hours prior to the time specified for the holding of such meeting, shall be a legal meeting; provided, that a quorum of the council is present.

(c) Same—Transaction of business. No business shall be transacted at any special meeting of the council unless the same has been stated in the notice of such meeting.

(d) Meetings to be public; citizens to be heard. 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.

(e) Quorum. Five 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, any number of members less than a quorum may adjourn any regular or special meeting to a later date.

(f) Rules; journal; voting; public access to records. The council shall determine its own rules and order of business and shall keep a journal in the English language of all its proceedings which shall be signed by the clerk, and by the mayor after approval thereof by the council. The vote upon the passage of all ordinances, and upon the adoption of all resolutions shall be taken by "Yes" or "No" votes and entered upon the record, except that where the vote is unanimous, it shall only be necessary to so state. The public shall have access to the minutes and records of all regular and special meetings of the council at all reasonable times.

(g) Each councilman shall be required to attend all meetings of the council. The council may compel the attendance of its members and other officers of the city at its meetings, and may enforce such fines for nonattendance, in such manner as may, by ordinance, be prescribed. 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 office. The police chief, or such other person as the council shall designate, shall serve as the sergeant-at-arms of the council in the enforcement of the provisions of this section and of section 4.5(a) of this chapter.

(h) Except as otherwise provided in this Charter, a councilman shall vote on each question before the council for a determination, unless excused therefrom by a vote of at least seven of the members of the council.

Sec. 4.8. Powers and duties generally—Providing for public health, safety, etc.

Through the established departments and agencies of the city government, together with any such departments or agencies as may be created under authority of this Charter, the council shall provide for the public peace, health, and recreation, and for the safety of persons and property.

Sec. 4.9. Same—Council as board of health.

The council shall constitute the board of health of the city, and shall possess all powers, privileges, and immunities granted to boards of health by state law. The mayor shall be president and executive officer and the clerk shall be the secretary of the board of health. All actions taken by the council in the exercise of the powers herein conferred shall be deemed to be actions in its capacity as the board of health.

Sec. 4.10. Same—Licenses.

The council shall, by ordinance, prescribe the terms and conditions upon which licenses may be granted, suspended, or revoked, and may require and exact payment of such reasonable sums for licenses, as it may deem proper, of persons receiving such license from the city. When required by ordinance, the person or persons receiving any such license shall, before the issuance thereof, execute a bond to the city in such sum and with such securities as shall be prescribed in such ordinance, conditioned for the faithful observance of the ordinance under which the license is granted and each other ordinance of the city, the provisions of which may be applicable to the exercise of such license.

Sec. 4.11. Same—Public works generally.

Except as otherwise provided in this Charter, the council shall be charged and entrusted with all responsibilities for the control of the parks, sewers, sewage system and plants, and other public improvements and works of the city, whether the same were in existence at the time this Charter became effective or may be thereafter acquired.

Sec. 4.12. Same—Cemeteries.

The council shall have power to enact all ordinances deemed necessary for the establishment, maintenance, and protection of cemeteries, together with improvements thereon and appurtenances thereto, owned or hereafter acquired by the city either within or without its corporate limits. All ordinances pertaining to public health and welfare in the regulation and protection of public cemeteries shall apply equally to all cemeteries within the city belonging to or under the control of, any church or religious society, or any corporation, company, or association. The city may cause any bodies buried within the city, in violation of any rule or ordinance made in respect to such burials, to be taken up and reburied in such a manner as shall conform to the ordinances of the city. A plan for the platting, sale, and perpetual care of all lots, plots, and lands therein shall be provided.

Sec. 4.13. Same—Streets, alleys, bridges, etc.

Except insofar as limited by state law and the provisions of this Charter, the council shall have power to establish, vacate, use, control, and regulate the use of its streets, alleys, bridges, and public places, whether such public places be located within or without the limits of the city, and the space above and beneath them. Such power shall include, but not be limited to, the proper policing and supervision thereof; the licensing and regulation, or the prohibition of the placing of signs, awnings, awning posts, and other things which are of such nature as to impede or make dangerous the use of sidewalks or streets of the city; and the licensing and regulation of the construction and use of openings in the sidewalks or streets, and all vaults, structures, and excavations under the same. When the council shall deem it advisable to vacate, discontinue, or abolish any public place, street, or alley or any part thereof, it shall, by resolution, so declare and, in such resolution, shall appoint a time, not less than 30 days thereafter, when the council shall meet and hear objections thereto. Notice of such hearing and of the purpose thereof shall be published not less than once in each of the three calendar weeks preceding such hearing in one of the newspapers of the city. Objections to such declared action of the council may be filed with the clerk, in writing. If

any such objection shall be filed, such public place, street, or alley, or part thereof, shall not be vacated, discontinued, or abolished, except by affirmative vote of six members of the council.

Sec. 4.14. Same—Gifts and trusts.

The council may, in its discretion, receive and hold any gift or bequest made to the city or any officer, board, or department thereof for any municipal purpose and shall apply the same in accordance with the terms and conditions, if any, of such gift and may, by contract or otherwise, if permitted by or consistent with the terms of the gift or bequest, transfer any such gift or bequest to or permit such gift or bequest to remain in the hands of any person, group of persons, or corporation to administer the same for the benefit of the city or any board or department thereof in accordance with the terms and conditions of such gift or bequest.

Sec. 4.15. Same—Acquisition of property.

The council shall have the power to acquire for the city by purchase, gift, condemnation, lease, construction, or otherwise, either within or without the County of Ottawa, property of every type and nature which may be required for or incidental to the present or future exercise of the purposes, powers, and duties of the city government established in this Charter.

Sec. 4.16. Same—City contracts and purchases.

The council shall be responsible for the control of letting and making of contracts and shall provide by ordinance the necessary procedures governing purchasing and making of contracts. Such ordinance shall specify an amount below which and the purposes for which purchases may be made by the city administration, either without specific authorization, or without the necessity of formal competitive bidding, or both. The council, in its discretion, shall have the right to reject any and all bids on work or on the furnishing of materials for the city.

Sec. 4.17. Same—Restrictions on powers of the council.

(a) The council shall not have the power to make any contract with or give any official position to any person 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 any property bordering on a water front, or to engage in any business enterprise requiring an investment of money in excess of $0.10 per capita, unless approved by 3/5 of the electors voting thereon at any general or special election.

(b) Except in those cases where a larger majority is required by state law or the provisions of this Charter, no ordinance or resolution shall be adopted or passed, nor shall any appointment be made, nor any person removed from office, as required or permitted by this Charter, except by the affirmative vote of at least five members of the council.

(c) There shall be no standing committees of the council; but this provision shall not be construed to prohibit the appointment by the mayor, with the approval of the council, of any temporary special committee to make or perform any investigation or act required by the council to be made or performed.

Sec. 4.18. Investigations.

The council, or any 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 to make investigations as to municipal affairs, and for that purpose may summon witnesses to appear before the council or such committee of the council to give information under oath pertinent to such inquiry, administer oaths, and require the production of books, papers, and other evidence. Any officer or employee of the city who shall fail or refuse to obey such summons or to produce books, papers, or other evidence as ordered under the provisions of this section, shall, on conviction thereof in any court of competent jurisdiction, be subject to a fine of not more than $100, or imprisonment, for not more than 90 days, or both, in the discretion of the court.

CHAPTER 5
City Legislation

Sec. 5.1. Status of Charter.

This Charter shall constitute the basic law of the City of Holland, subject only to the constitution and general laws of the State of Michigan and of the United States of America.

Sec. 5.2. Existing legislation preserved.

All ordinances, resolutions, rules, and regulations of the City of Holland, which are not inconsistent with the provisions of this Charter and which are in force and effect on the effective date of this Charter shall continue in full force and effect until repealed or amended.

Sec. 5.3. City legislation defined.

All legislation of the City of Holland, other than this Charter, shall be by resolution or by ordinance. The word "resolution" as used in this Charter shall be the official action of the council in the form of a resolution or a motion, which does not constitute an ordinance or a step in the adoption of an ordinance 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 matters 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.

Sec. 5.4. Ordinances generally; ordinance book.

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 Holland Ordains:". Except in the case of any ordinance which the council, with the approval of not less than six of its members, has voted to be an emergency ordinance, no ordinance shall be finally passed by the council until at least two weeks have elapsed following the introduction thereof. Any ordinance of the city may be repealed by reference to its number and title. The section or sections of any ordinance which is revised, altered, or amended shall be reenacted, and published at length. 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.

Sec. 5.5. Publication of ordinances.

Each ordinance passed by the council shall be published at least once after its adoption by the council before it shall become operative. The date upon which an ordinance shall become operative shall be specifically provided in the ordinance itself. When the ordinance imposes a penalty, unless such ordinance be declared to be an emergency ordinance by the council, such operative date shall not be less than 21 days from the date of its passage. Publication of any ordinance as required herein may be accomplished by publication of such ordinance, after its final passage, as a part of the published proceedings of the council.

Sec. 5.6. Penalties. [Amend. of 11-2-1999]

Each person who violates any provision of this Charter shall be subject to punishment by fine or imprisonment, or by both fine and imprisonment, in the sound discretion of the court having jurisdiction. The council may provide in ordinances passed by it for the punishment of violations of the provisions thereof by fine or imprisonment, or by both fine and imprisonment. No punishment for the violation of any city ordinance, any provisions of this Charter, or for the commission by any officer of the city of any act declared by this Charter to constitute misconduct in office, shall exceed the maximum penalty provided by state statute, MCL 117.4i; MSA 5.2082, as may be amended from time to time, and as the council in compliance therewith may so provide in ordinances that it passes.

Sec. 5.7. Prosecution of ordinance violations—Time limit.

Prosecution for violations of the ordinances of the city shall be commenced within two years after the commission of the offense.

Sec. 5.8. Same—Proceedings.

Except as the same may be inconsistent with or otherwise provided in chapter 7 of this Charter, all proceedings relative to the arrest, custody, and trial of persons accused of violation of the provisions of the laws and ordinances of the city, shall be governed by, and conform to, as nearly as may be, the provisions of law relating to the proceedings in criminal cases cognizable by justices of the peace.

Sec. 5.9. Adoption of technical codes, etc., by reference.

The council may adopt, as a city ordinance, any provision of state law or any detailed technical code or set of regulations which has been promulgated by the State of Michigan, or by the [any] department, board, or agency thereof, or by any organization or association which is organized and conducted for the purpose of developing any such code or set of regulations, by reference thereto in an adopting ordinance and without publishing such technical code or set of regulations in full; provided, that such code or set of regulations is fully identified in said ordinance and that the purpose of said code or set of regulations shall be published with the adopting ordinance and that printed copies thereof are kept in the office of the clerk, available for distribution to the public at all times. Such publication shall contain notice to the effect that a complete copy of said code or set of regulations is available for public use and inspection in the office of the clerk.

Sec. 5.10. Compilation or codification of Charter and ordinances.

(a) Copies of all ordinances enacted and amendments to the city Charter adopted after the effective date of this Charter shall be available at the office of the clerk.

(b) Within two years after the adoption of this Charter, and at least once in every 10 years thereafter, the council shall direct and complete the compilation or codification and the publication of the Charter and of all ordinances of the city then in force, in loose-leaf or pamphlet form, and may provide for a reasonable charge for copies thereof. The placing of not less than 500 copies of such compilation or code in the office of the clerk for public inspection and distribution shall constitute publication of such compilation or code. No further publication of any such compilation or codification of the ordinances of the city shall be required for the validity thereof. In case the codification or compilation shall have been maintained current and up-to-date during any ten-year period, no recompilation or recodification of the ordinances of the city shall be required during or at the end of such period.

(c) Copies of ordinances and of any compilation code, or codes referred to in this chapter may be certified by the clerk, and, when so certified, shall be competent evidence in all courts and legally established tribunals as to the matters contained therein.

CHAPTER 6
Administrative Service

Sec. 6.1. City manager generally; acting city manager.

The council shall designate a qualified person to perform the duties of city manager. He shall be selected by the council on the basis of training and ability alone and shall serve at the pleasure of and be subject to removal by the council at any time. With the consent and approval of the council, the city manager may designate an administrative officer or employee of the city to act as city manager if he is temporarily absent from the city or unable to perform the duties of his office. No person who holds or has held any elective city office shall be eligible for appointment as city manager or acting city manager during a vacancy in that office, until two years have elapsed following the expiration of the term for which he was elected.

Sec. 6.2. Functions of city manager.

The city manager shall carry out the policies formulated by the council. In conformity with the provisions of this Charter, he shall be charged with and be responsible to the council for the supervision and management of all of the services, works, and undertakings of the city, except as otherwise provided in this Charter. He shall be responsible for the enforcement of the ordinances of this city, the administrative provisions of this Charter, and the applicable laws of the state, the administration of the annual budget of the city and the efficient administration of all departments of the city government. He shall keep the council fully advised at all times as to the financial condition and needs of the city. He shall make all reports to the council required by this Charter, the ordinances, and resolutions of the council, and, in addition thereto, such as he may deem advisable. He shall propose to the council an administrative plan for the administration of the affairs of the city government and may propose amendments thereto at any time, which plan and amendments, when approved by resolution of the council shall constitute the administrative plan of the city. He shall have the right to take part in the discussion of all matters coming before the council, but shall have no vote thereon. He shall recommend to the council for adoption by it such measures as he may deem expedient. In addition to the duties prescribed by this Charter, the city manager shall perform such other administrative duties as may be required of him by ordinance or resolution of the council.

Sec. 6.3. Appointment, removal and terms of administrative officers; relationship of council with administrative service.

The city manager shall appoint and remove all appointive officers of the city, except the city manager and the city attorney; provided, that any such appointment to or removal from the office of the clerk, city auditor, treasurer, and assessor shall be effective only when formally approved by resolution of the council. Each appointive officer of the city, except the city attorney, shall hold office for an indefinite term. On or before the first Monday in May following each regular city election, the mayor shall appoint the city attorney with the advice and consent of the council. The city attorney shall hold office for a term of two years, beginning on and dating from the first day of July of the year in which he is appointed to such office.

The council and its members shall deal with the administrative service solely through the city manager, and neither the council nor any member thereof shall give orders as to the performance of his duties to any subordinate of the city manager, either publicly or privately. Any violation of the provisions of this section by a councilman shall constitute misconduct in office.

Sec. 6.4. Relationship between administrative officers and city manager.

All administrative officers of the city, except the city attorney, and the clerk insofar as he serves as the clerk of the council and of the boards of the city, shall be subordinate to and responsible to the city manager in the performance of the duties of their several offices.

Sec. 6.5. Functions of the clerk.

(a) The clerk shall be the clerk of the council and shall attend all its meetings and keep a permanent journal of every session of the council in the English language;

(b) He shall keep a record of all ordinances, resolutions, and actions of the council, which record shall be public;

(c) He shall have power to administer all oaths required for municipal purposes by state law, this Charter, and the ordinances of the city;

(d) He shall be custodian of all papers, documents, bonds, and records pertaining to the City of Holland, the custody of which is not otherwise provided for by this Charter;

(e) He shall be custodian of the city seal and shall affix it to all documents and instruments requiring the seal of the city, and shall attest the same;

(f) He shall give ample notice to the proper officials of the city of the expiration or termination of any franchise, contract, or agreement to which the city is a party, and to city officers personally of the expiration of the terms of their respective offices and of any official bonds required of them;

(g) He shall certify by his signature all ordinances and resolutions enacted or passed by the council and perform any other duties required of him by state or federal law, this Charter, the city manager, or the ordinances and administrative plan of the city;

(h) He shall be the recording clerk of the boards of the city and shall attend all their meetings and keep a permanent journal, in the English language, of every session thereof;

(i) He shall issue all licenses required to be issued by the ordinances of the city;

(j) He shall be the chief election officer of the city.

Sec. 6.6. Functions of the treasurer.

(a) The treasurer shall have custody of all moneys of the city, the clerk's bond, if any, and all evidences of value belonging to the city or held in trust by the city;

(b) Except as otherwise provided in this Charter, he shall receive all moneys belonging to and receivable by the city, that may be collected by any officials or employees of the city, including license fees, taxes, assessments, and all other charges belonging to and payable to the city, and shall in all cases, give a receipt therefor;

(c) He shall keep and deposit all moneys or funds in such manner and only in such places as the council may determine and shall report the same in detail to the city auditor;

(d) He is hereby vested with and shall exercise all powers, duties, immunities, and prerogatives in regard to the collection and custody of state, county, school district, and city taxes, assessments, charges, and moneys as are conferred by law upon township treasurers to enforce the collection of state, county, township, and school district taxes upon real and personal property;

(e) He shall perform such other duties as may be prescribed for him by state or federal law, this Charter, the ordinances and administrative plan of the city, or by the city manager.

Sec. 6.7. Deputies of clerk and treasurer.

The clerk and the treasurer may appoint their own deputies, subject to the written confirmation of the city manager. The clerk and treasurer may terminate the status of their deputies at their pleasure, upon written notice to the city manager. Such deputies shall, in each case, possess all the powers and authorities of their superior officers, except as the same may be from time to time limited by their superiors or by the city manager.

Sec. 6.8. Functions of the auditor.

(a) The auditor shall keep and shall be the custodian of the books of account of the assets, receipts, and expenditures of all departments of the city;

(b) He shall prescribe a method of keeping accounts for all departments and offices of the city, which method shall be uniform as near as practicable and shall conform to the laws of the state;

(c) He shall examine and audit all accounts and claims against the city, except claims for unliquidated damages. He shall not issue or sign any draft, check, or warrant, until he has verified the correctness of the account for which the same is issued. He shall not allow the payment of any account unless the money has been appropriated therefor; nor shall be issue or sign any draft, check, or warrant for any account against the city, unless sufficient money is in the fund against which it is drawn;

(d) He shall examine and audit all books of account of the city treasurer and of the municipal court at least once each month. At the end of each fiscal year, and at any other time upon the direction of the council, he shall examine and audit all books of account kept by each officer, board, or department of the city;

(e) He shall prepare the annual budget of the city under the direction of, and in the manner prescribed by, the city manager;

(f) He shall perform such other duties as may be required of him by this Charter, or by the city manager.

Sec. 6.9. Functions of the assessor.

(a) The assessor shall possess all the powers vested in, and shall be charged with all the duties imposed upon, assessing officers by state law.

(b) He shall make and prepare all regular and special assessment rolls in the manner prescribed by this Charter, the ordinances of the city, or by state law.

(c) He shall perform such other duties as may be prescribed for him by state law, this Charter, the ordinances or administrative plan of the city, or by the city manager.

Sec. 6.10. Functions of the city attorney; special compensation.

The city attorney shall be the corporate counsel of the city. He shall give his opinion in writing when requested to do so by the council, the city manager or any board of the city. He shall act as attorney for the city in all actions or hearings in all courts and before all legally constituted tribunals or commissions whenever the city is a party thereto or requires legal representation. He shall prepare or officially pass upon, in writing, before execution, all contracts, franchises, bonds, or other instruments in which the city is concerned. The salary, as set by the council, shall be in contemplation of the normal duties of the office of city attorney. The council may pay additional special compensation for extraordinary or special undertakings, provided the special compensation is agreed to by the council and the attorney before the service for which such special compensation is to be paid has been rendered.

Sec. 6.11. Special legal counsel.

The council may retain and compensate special legal counsel in relation to any special project, undertaking, or litigation. Such counsel may be employed to work independently in the special matter or in cooperation with or as assistant to the city attorney.

Sec. 6.12. City police.

The police forces of the city shall have and exercise all the immunities, privileges, and powers of police officers under the common law and statutes of the state for the preservation of quiet, good order, and for the safety of persons and property in the city. They shall arrest upon view, and with or without process, any person found in the act of committing any offense against the laws of the state or the ordinances of the city amounting to a breach of the peace and shall forthwith take such person before the proper magistrate or court for examination or trial.

Sec. 6.13. Fire fighting and prevention.

The fire fighting and prevention forces of the city shall be responsible for the use, care, and management of the city's fire fighting apparatus and property and shall conduct such supervisory and educational programs within the city and with its inhabitants and industrial and business interests as will diminish the risk and potentiality of fires within the city. The Fire Chief, or any person lawfully acting in his stead, may command any person present at a fire to aid in the extinguishment thereof and to assist in the protection of property thereat. If any person shall wilfully disobey any such lawful requirement or other lawful order of any such officer, he shall be deemed guilty of a violation of this Charter, which Charter constitutes the governing law of the City of Holland, and shall be subject to punishment therefor as in this Charter provided. The chief executive officer of the fire forces of the city, or any person lawfully acting in his stead, with the concurrence of the mayor, or of the city manager, or of any two councilmen, may cause any building to be pulled down or destroyed, when deemed necessary in order to arrest the progress of fire. Reimbursement by the city for the cost of any such building to persons having an interest therein shall be made in the manner provided by section 11 of chapter XXIX of Act No. 215 of the Public Acts of 1895, which section, insofar as it establishes the procedure for such reimbursement, is hereby adopted and made a part of this Charter by reference.

Sec. 6.14. Functions of other administrative officers.

The duties of all administrative officers, not otherwise provided for herein, shall be those established by law and the administrative plan proposed by the city manager and approved by the council.

Sec. 6.15. Public welfare and safety.

The council shall maintain within the administrative service of the city such city departments or agencies as may be required to provide for the public peace and health and for the safety of persons and property.

Sec. 6.16. Merit system of personnel management.

The council may provide by ordinance for a merit system of personnel management for the city. Such ordinance shall provide a professional and impartial approach to municipal personnel problems based solely upon the fitness, training, and experience of the individual with no discrimination on account of political or religious opinion. It is the intent of this section to secure the establishment of a merit system program as an integral part of the administrative service of the city to the end that the handling of the personnel activities will be done in a manner equitable to the city employee, satisfying for the administrative officials to use, and, by increased efficiency and improved administration, economical to the citizens.

Sec. 6.17. Pension plan.

The council may maintain for the benefit of the administrative officers and employees of the city, either with the State of Michigan, or by a plan of its own, a sound pension and retirement plan. No such plan, established by the city, shall contain pension and retirement benefits to such officers and employees which are less than the standards set by the state-wide pension plan for municipal officers and employees established and administered by the State of Michigan.

Sec. 6.18. Employees group benefits.

The council shall have the power to make available to the administrative officers and employees of the city and its departments, and boards, federal social security, if available, and recognized standard plans of group life, hospital, health, or accident insurance.

CHAPTER 7
Municipal Court

Editor's Note: The former Municipal Court of the city was abolished pursuant to M. S. A., §§ 27A.9921 to 27A.9930. Accordingly, the provisions of this chapter, relating thereto, have not been set forth in this volume.

CHAPTER 8
Supervisors

Editor's Note: The provisions of this chapter have been superseded by state law. (See M. S. A., § 5.359(1) et seq.). Accordingly, these provisions are not set forth in this volume.

CHAPTER 9
Budget and Finance Generally

Sec. 9.1. Fiscal year.

The fiscal and budget year of the city shall begin on the first day of July.

Sec. 9.2. Budget procedure generally.

On or before the 15th day of February in each year, each city officer and department head shall submit to the city manager an itemized estimate of the expenditures for the next fiscal year, for the department or activities under his control. The city manager shall prepare a complete itemized budget proposal for the next fiscal year of the city and shall submit it to the council on or before the first day of April, preceding the fiscal year of the city.

Sec. 9.3. Contents of budget document.

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

(a) Detailed estimates of all proposed expenditures for each department and office of the city, showing the expenditures for corresponding items for the current and last preceding fiscal years, with reasons for increases and decreases recommended, as compared with appropriations for the current 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 income of the city from sources other than taxes and borrowing, with a comparative statement of the amounts received by the city from each of the same or similar sources for the last preceding and current fiscal years;

(d) A statement of the estimated balance or deficit, as the case may be, 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 income from other sources, will be necessary to meet the proposed expenditures;

(f) Such other supporting schedules as the council may deem necessary.

Sec. 9.4. Budget hearing; notice; public inspection of budget.

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 week in advance thereof 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 week prior to such public hearing.

Sec. 9.5. Adoption of budget; appropriation; tax levy and limit.

Not later than the first meeting of the council in the month of May, the council shall, by resolution, adopt the budget for the next fiscal year and shall in such resolution make an appropriation of 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 1 3/4% of the assessed valuation of all real and personal property in the city; provided, that such levy may be increased by a majority of the electors of the city voting at the election at which the proposition to do so shall be so submitted, but such increase shall be limited to an amount which will not cause the total levy under authority of this section to exceed 2% of the assessed value of the real and personal property in the city.

Sec. 9.6. Funds for public improvements.

The council may establish and maintain a fund or funds for the purpose of appropriating, providing, setting aside, and accumulating moneys to be used for acquiring, extending, altering, or repairing public improvements which the city is authorized by law to acquire, alter, or enlarge. Moneys so appropriated, set aside, or accumulated shall not be transferred, encumbered, or otherwise disposed of, except for the purpose for which they were appropriated, set aside, or accumulated, unless approved by a vote of 3/5 of the electors of the city voting thereon, at a regular or special municipal election.

Sec. 9.7. Adherence to budget; transfer of operating appropriations.

After the budget has been adopted, no money shall be drawn from the treasury of the city nor shall any obligation for the expenditures of money be incurred, except pursuant to the budget appropriation. The council may, however, transfer any unencumbered operating appropriation balance, or any portion thereof, from one city operating fund to another, upon the written recommendation of the city manager by a vote of not less than six members of the council; provided, that any such appropriation balance under the control of any board of the city may be transferred only with the consent of such board. The balance in any budget appropriation, except such as may be appropriated for the payment of any debt of the city, which has not been encumbered at the end of each fiscal year shall revert to the general fund and shall be subject to the allocations made in the budget of the next fiscal year.

Sec. 9.8. Budget control.

At the beginning of each quarterly period during the fiscal year, and more often if required by the council, the city manager shall submit to the council data showing the relation

between the estimated and actual income and expenses to date. If it shall appear that the income of the city is 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 income of the city.

Sec. 9.9. City deposits and depositories.

The council shall designate the depository or depositories for the 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.

Sec. 9.10. Withdrawal of funds.

Unless otherwise provided by this Charter, all funds drawn from the treasury shall be drawn pursuant to the authority and appropriation of the council and by checks signed by either of two officers of the city, to be designated by resolution of the council, and countersigned by the city auditor. Each such check shall specify the fund or funds from which it is payable and shall be paid from no other fund or funds.

Sec. 9.11. Independent audit.

An independent audit shall be made of all accounts of the city government at least annually or more frequently if deemed necessary by the council. Such audit shall be made by certified public accountants experienced in municipal accounting and shall be completed within 90 days following the close of the fiscal year. The results of such audit shall be made public in such manner as the council may determine.

Sec. 9.12. Municipal borrowing and bonds generally.

Subject to the applicable provisions of state law and this Charter, the council, by proper ordinance or resolution, may authorize the borrowing of money on the credit of the city and the issuing of bonds therefor, for any purpose within the scope of its powers. The net bonded indebtedness incurred for all public purposes shall not at any time exceed 10% of the assessed value of all the real and personal property in the city; provided, that in case of fire, flood, or other calamity, the council may borrow for the relief of the inhabitants of the city and for the preservation of municipal property, a sum not to exceed 3/8% of the assessed value of all the real and personal property in the city, due in not more than five years, even if such loan would cause the indebtedness of the city to exceed the limit fixed in this Charter. In computing the net bonded indebtedness for the purpose hereof, the following shall not be included:

(1) Bonds issued in anticipation of the payment of special assessments, even though they are also a general obligation of the city;

(2) Mortgage bonds, which are secured only by a mortgage on the property or franchise of a public utility;

(3) The principal and interest of revenue bonds which are payable solely from net revenues derived from the operation of the public improvement purchased, acquired, constructed, improved, enlarged, extended, or repaired, or any combination thereof, by the proceeds of such bonds;

(4) Bonds issued to refund moneys advanced or paid on special assessments for water main extensions.

The resources of the sinking fund pledged for the retirement of any outstanding bonds shall also be deducted from the amount of the bonded indebtedness. No bond of the city, regardless of type or purpose, shall bear interest at a rate to exceed 6% per annum.

The council may borrow money and issue the bonds of the city therefor in anticipation of the payment of special assessments, which bonds shall be either solely an obligation of the special assessment district, or both an obligation of the special assessment district and a general obligation of the city. All collections on special assessment rolls shall be set apart in a special fund and shall be used for the purpose for which they were levied and for the payment of the principal and interest on any bonds issued in anticipation of the payment of such special assessments. If there be any deficiency in the special assessment fund to meet the payment of any such principal and interest, moneys shall be advanced from the general funds of the city to meet such deficiency and shall be replaced in such general fund when the special assessment fund shall be sufficient therefor.

Subject to the applicable provisions of state law, the city may borrow money and issue its bonds therefor, the principal and interest of which bonds shall be payable solely from the net revenues of the public improvement purchased, acquired, constructed, improved, enlarged, extended, or repaired, for the purpose of defraying the whole or a part of the cost of purchasing, acquiring, constructing, improving, enlarging, extending, or repairing any public improvement of the city which the city is permitted by law to acquire, own, or operate.

The city may issue mortgage bonds beyond the general limit of indebtedness prescribed by law for the purpose of acquiring, extending, or improving any public utility, for supplying water, light, heat, or power, owned or operated by it, or which it is authorized to acquire; provided, that such mortgage bonds issued beyond the general limit of bonded indebtedness prescribed by law shall not impose any liability upon the 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 20 years from the date of the sale of such utility and franchise on foreclosure. Such mortgage bonds shall be sold to yield not to exceed 6% per annum. In the event that any such mortgage bonds are sold by the city, there shall be created a sinking fund 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 at maturity.

The council may also borrow money on the faith and credit of the city, to provide for the refunding from time to time of moneys advanced or paid on special assessments imposed for water main extensions as buildings shall be connected with such water main extensions, and for the issuance of bonds therefor due in not more than 30 years in the amount not to exceed $15,000 and at the rate of interest, which shall not exceed 6%.

Sec. 9.13. Unissued bonds.

No unissued bonds of the city shall be issued or sold to secure funds for any purpose other than that for which they were specifically authorized, and, if any such bonds are not issued or sold within three years after authorization, such authorization shall, as to such bonds, be null and void.

CHAPTER 10
Taxation Generally

Sec. 10.1. Power to tax.

In order to carry out the purposes, powers, and duties of the city government, established by this Charter, the city may assess, levy, and collect taxes, rents, tolls, and excise or specific taxes.

Sec. 10.2. Subjects of ad valorem taxation; tax procedure generally; exemptions.

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 state law. No exemptions from taxation shall be allowed, except such as are expressly required or permitted to be made by state law.

Sec. 10.3. Assessment generally.

The assessor shall place a value, in accordance with state law, upon all property, both real and personal, in the city, which is subject to taxation in accordance with established assessment rules, techniques, and procedures.

Sec. 10.4. Assessment roll generally.

Prior to the first meeting of the board of review in each year, the assessor shall make and complete an assessment roll in the manner and form provided in the general tax law of the state.

Sec. 10.5. Board of review—composition; appointment, qualifications, terms and compensation of members.

The board of review shall be appointed by the council and shall be comprised of two officers of the city, other than the city assessor or the city clerk, and three persons who are taxpayers of the city and have been residents of the city for not less than three years. Such members who are appointed from among the officers of the city shall be appointed annually in the month of January to serve for one year. The remaining three members shall be appointed in the first instance, one to serve for a term of one year, one to serve for a term of two years, and one to serve for a term of three years; and the council shall, annually thereafter in the month of January, appoint one such member of the board to serve for a full term of three years. The council shall set the compensation of the board of review.

Sec. 10.6. Same—Meetings generally.

The board of review shall meet on the first Tuesday following the first Monday in March in each year at such place as shall be designated by the council, and shall continue in session from day to day, for the purpose of considering and correcting the roll, for four days, and as much longer as may be necessary. The board shall remain in session during such hours as the council may designate, but not less than six hours on each of said four days. If, for any cause, a quorum of the board of review does not assemble, or in the event that such board shall fail or refuse to act, during the days above mentioned, the roll, as prepared by the assessor, shall stand as if approved by the board of review. The board of review shall hold a meeting on or before the first Monday of April and at that meeting, shall complete the review of the assessment roll submitted to it and shall endorse and approve the same as provided by law.

Sec. 10.7. Same—Notice of meetings.

The clerk shall give notice to the public of the time and place of each meeting of the board of review by publication at least once not less than two weeks immediately preceding such meeting.

Sec. 10.8. Same—Organization, functions and proceedings generally; oath of members; quorum; unauthorized changes, etc., of assessment roll.

On the first day of its first meeting in each year, the board of review shall elect one of its members Chairman. The clerk shall be secretary of the board and shall attend its meetings. It shall be the duty of the clerk to keep a permanent record of all the proceedings of the board and to enter therein all resolutions and decisions of the board. It shall be the duty of the assessor to attend all meetings of the board with the privilege of participating therein, but without the right to vote upon any decision of the board. The members of said board shall take the constitutional oath of office which shall be filed with the clerk. A majority of the members of the board shall constitute a quorum. For the purpose of reviewing and correcting assessments, the board of review shall have the same powers and perform like duties in all respects as are by the general tax law conferred upon and required of boards of review in townships, in reviewing assessments in townships for township, state, and county taxes. It shall hear the complaints of all persons considering themselves aggrieved by assessments, and, if it shall appear that any person or property has been wrongfully assessed or omitted

from the roll, the board shall correct the roll in such manner as it shall deem fit. In all cases, the assessment roll shall be reviewed according to the facts existing on the assessment day and no change of the status of any property after said day shall be considered by the board in making its decision. Except as otherwise provided by state law, no person other than the board of review shall make or authorize any change upon or additions or corrections to the assessment roll.

Sec. 10.9. Same—Endorsement of assessment roll; validity.

After the board shall have completed its review of the assessment roll, a majority of its members shall immediately endorse thereon and sign a statement to the effect that the same is the assessment roll of the city for the year in which it has been prepared. The omission of such endorsement shall not affect the validity of such roll. Upon the completion of said roll and from and after midnight ending the last day of the meeting of the board of review, the same shall be the assessment roll of the city for county, school, and city taxes and for any other taxes on real and personal property that may be authorized by law and shall be conclusively presumed by all courts and tribunals to be valid and shall not be set aside except for causes set forth in the general laws of the state.

Sec. 10.10. Clerk to certify levy.

Within three days after the council has adopted the budget for the ensuing year, the clerk shall certify to the assessor the total amount which the council determines shall be raised by general tax.

Sec. 10.11. City tax roll generally.

After the last day for the meeting of the board of review, 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 amount to be raised, as provided in the preceding section, the assessor shall proceed to spread the amounts of the general city tax according to and in proportion to the several valuations set forth in said assessment roll. For the purpose of avoiding 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 state law. Any excess created thereby on any tax roll shall belong to the city. For convenience, the city tax roll may be divided into volumes.

Sec. 10.12. Tax roll certified for collection. [Amend. No. 3, 4-6-1953]

After extending the taxes aforesaid and not later than the 1st day of July 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 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 power and immunities possessed by township treasurers for the collection of taxes under the general laws of the state.

Sec. 10.13. Taxes constitute lien on property. [Amend. of 1-28-1997]

The city taxes thus assessed against personal property shall become at once a debt due to the city from the persons to whom they are assessed, and the amounts assessed on any interest in real property shall on the thirty-first day of December, prior to the levy of such taxes, become a lien upon such real property, and the lien for such amounts and for all interest and other charges thereon shall continue until payment thereof. All personal taxes shall also be a first lien, prior, superior and paramount, upon all personal property of the persons so assessed from and after the thirty-first day of December, prior to the levy of such taxes, and shall so remain until paid, which said tax liens shall take precedence over all other claims, encumbrances and liens upon said personal property, whatsoever, whether created by chattel mortgage, execution, levy, judgment, or otherwise, and whether arising before or after the assessment of said personal property taxes, and no transfer of personal property assessed for taxes thereon shall operate to divest or destroy such lien except where such personal property is actually sold in the regular course of retail trade.

Sec. 10.14. Notification of taxes due.

The treasurer shall not be required to make personal demand for the payment of taxes, but notice shall be given to the taxpayers of the city, by forwarding a statement of taxes due by first class mail, addressed to the several 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 chapter in case of nonpayment of the same.

Sec. 10.15. Tax payment schedule; collection fees and interest.

City taxes shall be due on the first day of July of the fiscal year when levied. All taxes paid on or before the fifteenth day of August of such year shall be collected by the city treasurer without the addition of any fee for collection. There shall be added to all taxes remaining unpaid after the said fifteenth day of August, a collection fee of 2%. All taxes not paid on or before the tenth day of September of such year shall be certified by the city treasurer to the city assessor, and such unpaid taxes and collection fees shall then be spread upon the December general tax roll against the descriptions of property and the several persons therein named for payment and collection. To all such there shall be added for interest the sum of 4% for the period from September tenth to January first next thereafter. An additional collection fee of 3% shall be added to all charges on the tax roll remaining unpaid on January tenth of the fiscal year in which such taxes are spread. Such interest and collection fees shall be collectible in the same manner as the taxes, assessments, and charges to which they are added. All such collection fees, and all interest on city taxes shall be paid into the general fund of the city.

Sec. 10.16. State, county, and school taxes.

For the purpose of assessing and collecting 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 fees to be paid therefor, the accounting therefor to the appropriate taxing units, and the returning of property to the county treasurer for nonpayment 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. So long as school taxes or any part thereof are collected at the same time as city taxes, they shall be collected subject to the same privileges and conditions as city taxes under the provisions of this Charter.

Sec. 10.17. Clerk to certify unpaid taxes and special assessments to assessor. [Amend. No. 4, 4-6-1953]

On or before the first day of November in each year, the clerk shall certify to the assessor, all amounts which are required by this Charter or which the council requires or orders to be assessed or reassessed in any street district, sewer district, or other special assessment district, or upon any description of real property, or against any person, as a special assessment or otherwise within the city, together with a description of the land or name and address of the person upon which or to whom the several sums are to be assessed or reassessed with such further description and directions as will enable the assessor to assess the several amounts upon the property and persons chargeable therewith.

Sec. 10.18. Assessor to certify taxes, etc.; treasurer's bond, etc.

The assessor, upon completing the several rolls, shall certify to the clerk the amounts of taxes levied in the roll for state and county purposes, and for city and school taxes, special assessments, and other purposes; and the clerk shall charge the said amounts to the treasurer. The treasurer shall give bond to the county treasurer in the same manner as township treasurers are required to do; and thereupon, and on or before the first day of December, the assessor shall deliver certified copies of the several tax rolls, with the taxes extended therein as aforesaid, to the treasurer, with his warrant annexed thereto for the collection of the taxes therein. The assessor, upon the completion of the several city tax rolls, shall certify to the clerk the amounts of taxes levied therein.

Sec. 10.19. Contents, etc., of warrants annexed to rolls.

The warrant annexed to each and all of such rolls shall state the several amounts levied therein to be paid into the city, school, and county treasuries, respectively; and shall command the treasurer to collect from the several persons named in said rolls the said amounts; and the warrant shall authorize the treasurer, in case any person shall neglect to pay his tax, to levy the same by distress and sale of the goods and chattels of such person.

Sec. 10.20. Lien for taxes, assessments and charges generally.

All taxes, assessments, and charges levied or spread in any such tax rolls shall be and remain a lien upon the property until paid.

Sec. 10.21. Apportioning of tax on portion of taxed property.

Any person owning an undivided share or other part of any parcel of real property, assessed in one description, may pay the taxes assessed against such description or may pay the share or part owed by him by paying an amount having the same relation to the whole tax as the value of the part on which payment is made bears to the value of the whole description and the receipt given and the record of the receiving officer shall show that such payment was made and the claimed interest upon which it was made.

Sec. 10.22. Return of delinquent tax roll to county treasurer; collection.

All taxes, special assessments, collection charges, and interest on the city tax roll which remain unpaid on the first day of March following the date when said roll was received by the treasurer shall, on that date become delinquent and shall be returned 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 interest which shall, in such return, be added to the amount assessed in said tax roll against each description. The taxes, assessments, charges, and interest, thus returned shall be collected in the same manner as other taxes returned to the county treasurer are collected under the provisions of the general laws of the state and shall be and remain a lien upon the lands against which they are assessed, until paid.

Sec. 10.23. Protection of city liens.

The city shall have power insofar as the exercise thereof shall not conflict with or contravene the provisions of any general law of the state, to acquire by purchase any premises within the city at any tax or other public sale, or by direct purchase from the State of Michigan, or the fee owner, when the purchase of such property 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. Any such procedure exercised by the city in the protection of its tax lien shall be deemed to be for public purpose.

CHAPTER 11
Elections

Sec. 11.1. Qualifications of electors.

Each person who has the constitutional qualifications of an elector in the State of Michigan, or who will have such qualifications at the next ensuing regular or special city election, shall be entitled to register as an elector of the City of Holland in the precinct in which he resides.

Sec. 11.2. Election procedure.

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 procedures, or require more than one publication of notice and except as otherwise provided by this Charter.

Sec. 11.3. Regular city elections.

Except as otherwise provided in this Charter, a nonpartisan regular city election shall be held on the first Monday in April in each odd numbered year.

Sec. 11.4. Special elections.

Special city elections shall be held when called by resolution of the council, adopted at least 40 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 each election. No more than two special city elections shall be held in any one calendar year.

Sec. 11.5. Primary elections; when primary not held; when elected at primary. [Amend. of 11-19-2004]

A nonpartisan city primary election shall be held on the date prescribed by state law for the holding of general primary elections. If, upon the expiration of the time for filing nomination petitions for any elective city office, it appears that petitions have been filed for no more than twice the number of candidates for such office, then no primary election shall be held with respect to such office, and the clerk shall publish notice of such fact. Candidates in number equal to twice the number of persons to be elected to each city office, who receive the highest number of votes at any such city primary election shall be declared the nominees for election to the respective offices for which they are candidates. Notwithstanding the foregoing, in all primary elections, any candidate for an office who receives a majority of all votes cast for candidates for that office shall be elected. In cases where no primary election was held, persons named in petitions shall be certified to the election commission to be placed upon the ballot for the next subsequent regular city election. No person whose name is not printed on the primary election ballot, but whose name is written thereon, or appears on the ballot on a sticker pasted thereon at such election, except such stickers as have been placed thereon by the election commission as provided by law, shall be nominated for election to any office, unless he shall receive at least 25 votes nominating him for such office.

Sec. 11.6. Election commission.

An election commission, consisting of the clerk, the mayor, and the city attorney, is hereby created. The clerk shall be 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 all election personnel shall be determined in advance by the council. In any case where election procedure is in doubt, the election commission shall prescribe the procedure to follow.

Sec. 11.7. Notice of election.

Notice of the time and place of holding any city election and of the officers to be elected and the questions to be voted upon, shall, except as herein otherwise provided, be given by the clerk in the same manner and at the same times as provided in the state election laws for the giving of notices by township clerks in state elections.

Sec. 11.8. 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.

Sec. 11.9. Nomination petitions—Generally. [Amend. No. 9, 4-3-1967]

Persons desiring to qualify as candidates for any office, elected at large, under this Charter shall file an official petition therefor with the clerk signed by not less than 60 registered electors of the city, of which not less than 10 shall be from each ward of the city. In the case of councilmen to be elected from the several wards of the city, such petitions shall be signed by not less than 20 nor more than 40 registered electors of the ward from which such person seeks election. Such petitions shall be filed with the clerk not later than 4:00 p.m., Eastern Standard Time, on the sixth Monday prior to the date of the regular city primary election. Official blank petitions in substantially the same form as required by state law for nonpartisan judicial officers, shall be prepared and furnished by the clerk. Before the clerk shall furnish nomination petitions to any person, he shall enter thereon in ink the name of the person desiring to become a candidate for office in the city, or the person in whose behalf the petition is to be circulated, and the name of the office for which he is to be candidate and no petition which has been altered with respect to such entries shall be received by the clerk for filing under the provisions of this section. Nomination petitions for the purpose of filling a vacancy shall so state in connection with the name of the office for which the petition is to be circulated. The clerk shall publish notice of the last day, time, and place 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 more than one petition for any one office to be filled at the next regular city election. Where any name appears on more than one petition for the same office, such name shall not be counted upon any petition for that office.

Sec. 11.10. Same—Filing and approval of petitions.

The clerk shall accept for filing only nomination petitions on official blanks containing the required number of signatures for candidates having those qualifications required for elective city officers by this Charter. When petitions are filed with [by] persons other than the person whose name appears thereon as a candidate, they may be accepted for filing only when accompanied by the written consent of the person in whose behalf the petition or petitions were circulated. The clerk shall, within five days after the final filing date, determine the sufficiency of the signatures of each petition filed, and if he finds that any petition does not contain the required number of signatures of registered electors, he shall immediately notify the candidate in writing of the insufficiency of his petition. Each petition which is found by the clerk to contain the required number of signatures of registered electors for candidates

shall be marked "In Order" with the date thereof, and he shall immediately so notify the candidate whose name appears thereon, in writing.

Sec. 11.11. Same—Public inspection of petitions.

All nomination petitions shall be open to public inspection in the office of the clerk beginning five days after the final filing date for such petitions.

Sec. 11.12. Contents and form of ballots.

The names of all persons nominated for election to each city office, including the names of candidates for election to membership on the council who are nominated by the respective wards of the city, shall be placed upon the city ballot for the election of qualified persons to fill such offices by the electors of the city at large. The form of the ballot used in any city election shall conform as nearly as may be to that prescribed by or in accordance with state law for nonpartisan elections. The names of qualified nominees for each office shall be rotated on the ballots.

Sec. 11.13. Canvass of votes. [Amend. No. 20, 11-6-1984; amend. of 11-19-2004]

The board of canvassers, as created and established by state law, shall canvass the votes cast at all city elections. The board of canvassers shall meet in accordance with the requirements of state law, and publicly canvass the returns of such election, and shall determine the vote upon all questions and propositions, and declare whether the same has been adopted or rejected and what persons have been nominated for election or elected at such election. The candidates for the office of membership on the council, nominated by each ward of the city entitled to nominate such candidates at any city election, receiving the larger number of legal votes at such election by the electors of their respective ward or elected at a primary pursuant to Sec. 11.5 of the Charter, shall be deemed to have been elected to the office for which he was a candidate. The candidates for the office of membership on the council, nominated by the electors of the city at large or elected at a primary pursuant to Sec. 11.5 of the Charter, receiving the larger number of legal votes at such election of the city at large, shall be deemed to have been elected to the office for which he was a candidate.

Sec. 11.14. Tie vote.

If, at any city election, there shall be no choice between candidates by reason of two 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 nomination or election of such candidate 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.

Sec. 11.15. 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.

Sec. 11.16. 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.

Sec. 11.17. Initiative and referendum—Generally.

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

Sec. 11.18. Same—Petitions. [Amend. No. 21, 11-6-1984]

A petition initiating an ordinance, or requesting a referendum on an ordinance, shall be signed by not less than 15% of the number of electors of the city who voted for governor of the State of Michigan at the last fall election held in the state. Before being circulated for signatures, all such petitions shall be approved as to form by the city attorney. No such petition need be on one paper but may be the aggregate of two 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 place of his residence by street and number, or by other customary designation. To each petition paper there shall be attached a sworn affidavit 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 10 days, canvass the signatures thereon to determine the sufficiency thereof. No signature, in the case of a petition initiating an ordinance, shall be counted in the canvass thereof which was signed thereto more than six months prior to the date on which such petition was filed with the clerk, or, in the case of a petition requesting referendum on an ordinance or legislative act, shall be counted in the canvass thereof which was signed thereto more than 30 days prior to the date on which such petition was filed with the clerk, and, in any case, a signature shall be disqualified if the date following such signature has been altered in any manner. If any petition initiating an ordinance shall be found to contain an insufficient number of signatures of registered electors of the city, or to be improper as to form or not to be in compliance with the provisions of this section, the clerk shall notify the person filing such petition forthwith, and 10 days from such notification shall be allowed for the filing of supplemental petition papers. When found sufficient and proper, the clerk shall certify such fact on the petition or not less than one paper thereof, indicating the date and time of such certification, and shall present the petition to the council at its next regular meeting.

Sec. 11.19. Same—Council procedures.

Upon receiving a petition initiating an ordinance or requesting a referendum on an ordinance from the clerk, the council shall, within 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 and provide for the holding of the election thereon; or

(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 and provide for the holding of the election thereon.

Sec. 11.20. Same—Submission of proposal to electors.

Should the council decide to submit the proposal to the electors in either case, it shall be submitted at an election to be held not less than 40 days, nor more than 90 days, after the date of action thereon by the council; provided, that, if any election, other than a school election, is to be held, in the city, for any purpose whatsoever, within 120 days after such action by the council, such proposal shall be submitted to the electors of the city at such election. If such proposal must be submitted at a special election, and no such election may be held in the city because of any limitation thereof imposed by law, then such proposition shall be submitted to the electors of the city at the next election other than a school election, held in the city for any purpose whatsoever. 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.

Sec. 11.21. Same—Limitation on referendum; suspension of ordinance; amendment or repeal of initiatory ordinance; conflicting ordinances. [Amend. No. 21, 11-6-1984]

No petition seeking referendum on an ordinance or legislative act of the council shall be valid unless filed with the clerk within 30 days after the effective date of an ordinance or of the adoption date of a resolution. Certification by the clerk of the sufficiency of a petition for referendum shall automatically suspend the operation of the ordinance or legislative act 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 years after the date of the election at which it was adopted. Should two or more ordinances, adopted at the same election, have conflicting provisions, the one receiving the highest vote shall prevail as to those provisions.

CHAPTER 12
Utility Franchises and Municipal Ownership of Utilities

Sec. 12.1. Conditions applicable to public utility franchises.

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 right of the city:

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

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

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

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

(e) To impose such other regulations as may be determined by the council to be conducive to the safety, welfare, and accommodation of the public;

(f) To require the public utility to which any franchise is granted to permit joint use of its property and appurtenances located in the streets, alleys, and public places of the city, by the city, and other utilities insofar as such joint use may be reasonably practicable and upon payment of reasonable rental therefor; provided, that in the absence of agreement, upon application by the public utility, the council shall provide for arbitration of the terms and conditions of such joint use and the compensation to be paid therefor;

(g) To pay such part of the cost of improvement or maintenance of the streets, alleys, bridges, and public places of the city, as shall arise from its use thereof and to protect and save the city harmless from all damages arising from said use.

Sec. 12.2. Procedures and requirements controlling franchise ordinances, etc.

Every ordinance or resolution granting any franchise or right to occupy or use the streets, highways, bridges, or public places in the city for any purpose shall be complete in the form in which it is finally passed, and remain on file with the clerk for public inspection for at least 30 days before the final passage or adoption thereof, or approval for referral to the electorate. No exclusive or irrevocable franchise shall be granted by the city, unless such proposition shall have first received the affirmative vote of at least 3/5 of the electors of the city voting thereon at a regular or special election. No such franchise ordinance, or resolution shall be approved by the council for referral to the electorate 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, or ordinance granting or authorizing the granting of a license to use or occupy the streets of the city for public utility purposes 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.

Sec. 12.3. General powers relative to municipal utilities and services. [Amend. No. 16, 11-8-1977]

The city shall possess and hereby reserves to itself all powers granted to cities by the constitution and general laws of the State of Michigan to acquire, by purchase or condemnation, the franchises, if any exist, and the property used in the operation of companies or individuals engaged in the electric, light, gas, heat, water and power business and for the purchase and condemnation of private property for any public use or purpose within the scope of the powers specified herein, to construct, own, operate, improve, enlarge, extend, repair and maintain, either within or without its corporate limits, airports, landing fields and aeronautical facilities, hospitals and public utilities, including, but not by the way of limitation, public utilities for treating and supplying water, and for supplying light, heat, power, gas, sewage treatment and garbage disposal facilities, or any of them, to the city and its inhabitants; and also to sell and deliver water, light, heat, power, gas and other public utility services, without its corporate limits to an amount not exceeding the limitations set by the state constitution. The power to supply, as herein possessed and reserved, shall include the power to extract and process water, electricity or gas from natural resources, to manufacture the same or to purchase the same from others.

Sec. 12.4. Board of public works generally—Management of electric and water utilities of the city.

The board of public works of the City of Holland, having been created, is hereby continued, and shall be known and designated as the board of public service.[1] Such board, subject only to the approval of the council, is hereby charged with the duty, power and responsibility of constructing, maintaining, improving, and extending the electric and water plants and distribution systems of the city, together with any public heating which may be a by-product thereof, and with the management, supervision, and control thereof. The title of all grounds and rights in real or personal property held, purchased, or otherwise secured by or on behalf of said board, shall be taken in the name of the City of Holland; and said water, electric and heating plants and works, and everything pertaining thereto, shall be the property of the city, and all contracts and purchases made by said board, shall be in the name of the city.

1. **Editor's Note: See section 12.20 of this Charter which changes the name of the "board of public service" to the "board of public works."**

Sec. 12.5. Same—Status of board.

The board of public service [works][2] and the works, and utilities, under its management, supervision, and control, shall constitute a department of the city government.

Sec. 12.6. Same—Composition; appointment, qualifications and terms of members; filling vacancies. [Amend. No. 12, 4-7-1969]

The board of public works shall be composed of the five members of that board, who held office on the date that this Charter became law, and the city manager. Said members shall hold office for the balance of the terms for which they were elected or appointed prior to the date that this Charter became law. Thereafter, their successors shall be appointed by the mayor, with the advice and consent of the council, during the month of June of each year. Each person appointed as a member of the board of public works shall possess the qualifications required by this Charter for elective officers of the city and shall be appointed to serve for a term of five years commencing on and dating from the first day of July, next following his appointment; provided, that persons appointed to fill a vacancy shall assume office immediately upon appointment and shall hold office only for the balance of the term of the person creating such vacancy. The city manager, as a member of the board of public works, shall have the duty of attending all meetings of the board, shall be privileged to participate in all discussions and proceedings of the board, but shall not be entitled to vote on questions before the board.

Sec. 12.7. Same—Organization; officers; quorum.

Said board shall, annually during the month of July, organize and elect one of its appointed members president. A majority of the board, other than the city manager, shall constitute a quorum for the transaction of business. The clerk of the city shall be ex officio clerk of the said board, but shall have no vote therein. He shall have access to all of its records and papers.

Sec. 12.8. Same—Public service planning; annual report.

The board of public service [works][3] shall be charged and entrusted with the responsibility for the planning of improvements of, additions to, extensions of, and the operation and maintenance of the public service works of the city relating to the supplying of electricity and water to the inhabitants of the city, and within any limits provided by law, the territory surrounding the city. The board shall, annually in the month of March, make a report to the council, by filing the same with the clerk, which report shall present an analysis of the status and needs of the public service works under the board's jurisdiction and the recommendations of the board with respect thereto. Such report shall contain estimates of the costs of all improvements of, additions to, and extensions of the public services of the city which are recommended to be made during the ensuing fiscal year of the city, together with

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2. Editor's Note: See section 12.20 of this Charter which changes the name of the "board of public service" to the "board of public works."

3. Editor's Note: See section 12.20 of this Charter which changes the name of the "board of public service" to the "board of public works."

explanations thereof. The council shall have power to modify or disapprove any improvement of, addition to, or extension of the public service works of the city which may be recommended to be made in such report; provided, however, that unless the council shall modify or disapprove of any such recommended improvement, addition, or extension, or any number or combination of the same within 30 days after the date of the first meeting of the council, following the filing of such report with the clerk, such report shall be deemed to be approved by the council. Such report, as approved or modified by the council shall constitute the public service works program of the board of public service [works] for the fiscal year following that in which it is filed and it shall not again be necessary for the board to secure the approval of the council for the making of any improvement of, addition to, or extension of the public service works of the city which is made in accordance with such report as approved or modified by the council. Except as provided in section 12.9, the board of public service [works] shall make no improvement of, addition to, or extension of any public service work of the city in any year, except in accordance with such report as approved or modified by the council with respect to both the nature and the estimated cost thereof, unless the same shall be first approved by the council.

Sec. 12.9. Same—Budget; additional expenditures.

On or before February 15, of each year, the board of public service [works][4] shall file with the city manager for the consideration of the council, a budget proposal and a payroll schedule for the next fiscal year of the city. Such budget shall set forth estimates, in substantially the form required by this Charter for budget proposals of the city, of the amount of money, other than moneys estimated to be required for improvements of, additions to, or extensions of the public service works of the city under its control which, according to the judgment of the board, will be required for the public service works of the city during the ensuing fiscal year of the city. The budget proposal of the board of public service [works] shall be appended to and made a part of the budget proposal of the city which is submitted to the council by the city manager. The estimates of the board of public service [works], contained in its budget proposal, may be modified or adopted by the council. In the event that the council does not act upon or complete its action upon such proposed budget by the first day of June, following the filing thereof with the clerk, such proposed budget shall be presumed to have been approved by the council and shall be the budget of the board for the ensuing fiscal year of the city just as though formally approved by the council. The board of public service [works] shall administer its own budget. With the consent of the council, the board may exceed any budget appropriation or allotment where it can transfer a sufficient amount therefor from unencumbered balances within its budget. All proposed expenditures of the board of public service [works] which are not included in the board's planning report provided in section 12.8, or its budget, as approved by the council, shall be approved by the council before any obligation for such expenditures shall be incurred by the board; provided, however, that when by unanimous action of the board, it is deemed necessary for the proper functioning of any utility under the board's jurisdiction to install or construct works, or purchase material for the extension of, or addition to, any such utility beyond its yearly planning or budget report, and when the cost of such extension, addition, or purchase does not exceed the total sum of $1,000, and the money to pay the same is or will be available in the unencumbered funds of the board, then such extension, addition, or purchase may proceed

4. Editor's Note: See section 12.20 of this Charter which changes the name of the "board of public service" to the "board of public works."

without further authorization; provided, further, that the total cost of all extensions, additions, or purchases made or done under authority by this proviso shall not exceed the sum of $5,000 in any fiscal year of the city.

Sec. 12.10. Same—Employment of superintendent of utilities and other operating personnel.

Subject to budget allowances therefor, and without the necessity of the approval of the council, the board of public service [works][5] shall have power to employ a superintendent of utilities and all personnel deemed by the board to be necessary for carrying on the supervision, operation, maintenance, and general conduct of the public service works of the city entrusted to it by the provisions of this Charter and budget allowances therefor.

Sec. 12.11. Same—Expenses and funds generally.

The expenses of conducting the affairs of the board of public service [works][6] shall be defrayed from the revenues of the public service works of the city under its control, or may be paid or supplemented from the general funds of the city, if the council shall so determine with the concurrence of the board of public service [works]. All funds earned, raised, or realized by the board shall be deposited with the treasurer who shall give a receipt therefor and file a copy thereof with the city auditor. The treasurer shall deposit all such receipts to the credit of the proper fund or account of the city.

Sec. 12.12. Same—City auditor to provide system of accounts; board accounts generally.

Separate accounts shall be provided for and kept by the city auditor, in the form required by state law, for each public service work which is owned by the city and operated by the board. Such accounts shall show the value of any service rendered to or by such public service work or works of the city with reference to the city itself. Such accounts shall take into consideration and preserve, for the use for which the same were set aside and accumulated, all funds of the city which stand to the credit of the board of public works of the city at the time that this Charter became law. Except as otherwise provided in this Charter, all funds raised for, or realized from the operation of such public service works and utilities of the city shall remain in the accounts to which they have been allocated and no part thereof shall be transferred from or revert to any other account or fund at the close of any fiscal year.

Sec. 12.13. Same—Annual audit; other reports to council.

The cost of making the annual audit of the accounts of the board of public service [works][7] shall be defrayed from the funds of the board. The annual audit of the affairs of the board of public service [works] shall show the financial status of the affairs of the board and, as nearly

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5. Editor's Note: See section 12.20 of this Charter which changes the name of the "board of public service" to the "board of public works."

6. Editor's Note: See section 12.20 of this Charter which changes the name of the "board of public service" to the "board of public works."

7. Editor's Note: See section 12.20 of this Charter which changes the name of the "board of public service" to the "board of public works."

as possible, the financial results of the city ownership and operation of the public service works of the city for which the board is responsible. The board shall also make such other reports and furnish such other information to the council as that body shall require by ordinance or resolution.

Sec. 12.14. Same—Purchase of water or electricity by city.

With the consent of the council, the board of public service [works][8] may purchase water or electricity from any person, firm, or corporation, municipal or private, if such purchase may be deemed by the board to be in the best interest of the city and the inhabitants thereof.

Sec. 12.15. Other city utility services.

The council shall be charged with the responsibility for constructing, maintaining, improving and extending the sewage disposal facilities, the fire alarm system, and such other utilities of the city as existed on the date this Charter became law or which may thereafter have been acquired by the city. Such facilities shall constitute one or more separate departments of the city government or may be assigned by resolution of the council to an appropriate department or division of the city government, or shall be under the administrative charge and responsibility of the city manager as the council shall determine.

Sec. 12.16. Limitation on use of utility funds.

The receipts from the operation of the electric and water utilities and income from investments shall be applied to the purposes thereof, in accordance with the budget appropriations, including the payment of bonds outstanding or which may be issued for the purposes of such utilities and the interest thereon. The net income shall be determined by deducting from the receipts from operations and income from investments all expenses incurred and charges made or allowed for and on behalf of such utility in accordance with budget appropriations, or by appropriate action under authority of section 9 of this chapter, and after the setting aside of moneys for the payment of principal and interest on indebtedness in accordance with any ordinance or resolution authorizing such indebtedness. Up to 50% of the annual net income of the board may be appropriated by the council to the general purposes of the city. All such net income which is not so appropriated shall be placed in proper accounts or funds of the city which shall be established as reserves for future operations, replacement, extension, or improvement of such utilities. Nothing herein contained shall be interpreted to limit the power of the council to place, for any year, in such accounts or funds a larger percentage than 50% of such net income to the purposes of such utilities, in the event that such appropriation shall be requested by the board of public service [works][9] and be approved by seven members of the council.

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8. Editor's Note: See section 12.20 of this Charter which changes the name of the "board of public service" to the "board of public works."

9. Editor's Note: See section 12.20 of this Charter which changes the name of the "board of public service" to the "board of public works."

The foregoing limitation of 50% of such net income which may be appropriated by the council for general purposes may be increased in any year by and with the consent of the board of public service [works], and the consent of seven members of the council.

Such funds so established as reserves for the purposes of the utilities may be invested and reinvested by the city auditor as the board of public service [works] shall direct, by and with the approval of the council, in such investments as are authorized by law for investment by fiduciaries. Said funds may be used for the purposes of such utilities upon the recommendation of the board of public service [works], by and with the consent of the council.

The electors of the city may, by a 3/5 vote of the qualified electors voting on such proposal at a regular or special election, approve an appropriation of more than 50% of the net income for any year for general purposes, or may approve the placing of more than 50% of the net income for any year in the reserve accounts or funds as above provided for the purposes of such utilities, or may approve for other municipal purposes the use of such accumulated and unallocated accounts or funds as have been established.

Sec. 12.17. Utility rates and charges generally.

With the approval of the council, the board of public service [works][10] shall fix the rates to be charged for all public utility services under its control. The council shall fix the rates to be charged for all public utility services of the city which are not under the control of the board of public service [works]. When any person, firm, or corporation, shall fail or refuse to pay to the city any sums due on utility bills, such service upon which such delinquency exists may be shut off or discontinued by the proper board or department of the city and suit may be instituted by the city for the collection of the same in any court of competent jurisdiction.

Sec. 12.18. Lien for utility charges; collection of delinquent charges.

Except as otherwise provided, or limited by state law, the city shall have as security for the collection of all charges, a lien upon the premises to which such utility services were supplied. Such lien shall become effective immediately upon the distribution or supplying of such utility service or services to such premises.

All unpaid charges for utility services furnished to any such premises, which, on the 30th day of June of each year, have remained unpaid for a period of three months, or more, shall be reported by the city auditor to the council at the first meeting thereof in the month of July. The council thereupon shall order the publication in a newspaper published in the city, of notice to all owners of property within the city that all unpaid utility charges which have remained unpaid for a period of three months or more prior to the 30th day of June, and which have not been paid by the thirty-first day of July, shall be assessed upon the city's tax roll against the premises to which the utility services, for which the unpaid charges accrued, were supplied or furnished; and that such charges shall be collected in the same manner as the city taxes on said tax roll.

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10. Editor's Note: See section 12.20 of the Charter which changes the name of the "board of public service" to the "board of public works."

All such utility charges, which remain unpaid on the 31st day of July, shall be transferred to the city's tax roll and assessed against the premises to which the utility service, for which the unpaid charges accrued, was supplied or furnished, and shall be collected with, and in the same manner as, city taxes. If the same have remained delinquent and unpaid after the expiration of the time limited in the treasurer's warrant for the collection of taxes levied in said tax roll, such charges shall be returned to the county treasurer to be collected in the same manner as the lien created by city taxes on the delinquent tax roll of the city.

In the event that any provision of this section shall prove to be incomplete or inadequate for the carrying out of the purposes thereof, the council shall provide by ordinance such additional procedures as may be required for the collection of public utility charges, and, for such purpose, shall have all the powers granted to cities by Act No. 178 of the Public Acts of 1939, as amended.

Sec. 12.19. Disposal of plants, etc.

Except for purposes permitted by law, the city shall not sell, exchange, lease, or in any other way alien or dispose of the property, easements, income, equipment, privileges, or assets belonging to and appertaining to any utility which it may own or acquire, unless and except such proposition shall first have been submitted to the qualified electors of the city at a special city election called for that purpose in the manner provided in this Charter, and approved by them by a 3/5 majority vote of the electors of the city voting thereon. All contracts, negotiations, licenses, grants, leases, or other forms of transfer in violation of this provision shall be void and of no effect. The provisions of this section shall not, however, apply to the sale or exchange of any article of equipment of any city-owned utility which is worn out or useless, or which is being or has been replaced by new and improved machinery or equipment.

Sec. 12.20. Board name change, etc. [Amend. No. 1, 4-2-1951]

The name of the "board of public service" is hereby changed to the name of "board of public works," and in each place in the city Charter where the name of "board of public service" appears, the same shall be deemed to mean the "board of public works."

The board of public works shall succeed to all the property, money, contracts, rights, credits, effects, records, files, books and papers belonging to the board of public service, and shall perform all the duties, obligations and functions specified in the Charter to be performed by the board of public service.

CHAPTER 13

Reserved[11]

11. **Editor's Note: Sections 13.1—13.5 pertaining to the historical/cultural commission were deleted in their entirety by an amendment approved by the electorate on Jan. 28, 1997.**

CHAPTER 14
City Library

Sec. 14.1. Library board—Continued; composition; appointment, qualifications and terms of members; vacancies. [Amend. No. 22, 11-7-1989]

(a) The library board of the City of Holland, having been created, is hereby continued. The library board shall be composed of five members, appointed in compliance with the provisions of the Charter and such additional members as may be added pursuant to subsection (b) below. The appointed members existing on the date of this amendment shall continue to hold office for the balance of the terms for which they were appointed, and thereafter, their successors shall be appointed by the mayor, with the advice and consent of the council, during the month of June in each year for a term of five years. Each person appointed as a member of the library board by the city shall possess the qualifications required by this Charter for elective offices of the city and shall be appointed to serve for a term of five years, commencing on the first day of July, following their appointment. A person, appointed to fill a vacancy, shall assume office immediately upon appointment and shall hold office only for the balance of the term of the person creating such vacancy.

(b) There may be added to the library board one or more township members, appointed by their respective township boards. No township shall have more than one member on the library board. The addition of a township member shall be only for the term of any intergovernmental contract for library services, or renewal thereof, entered into between the city and the township. The removal and term of the appointment of the township member shall be governed by the terms, conditions and agreements of the applicable intergovernmental contract. The township member shall have all rights, privileges and duties, without qualification, as any city member of the library board.

Sec. 14.2. Same—Organization; officers; quorum; appointment of librarian and other personnel; audit of accounts.

The library board shall, at its first regular meeting in the month of July in each year, organize and elect one of its members president. The clerk shall be the clerk of the board. A majority of the board shall constitute a quorum for the transaction of business. The board shall appoint a librarian and all necessary personnel required to operate and conduct the affairs entrusted to it, subject to budget allowances therefor. The accounts of the board shall be subject to audit at the time the general accounts of the city are audited.

Sec. 14.3. Same—Meetings; powers and duties generally; bylaws, rules and regulations.

The library board shall hold at least one regular meeting in each calendar month, and shall be charged and entrusted with the management, supervision, and control of all city library facilities which are or shall be owned or operated by the city and shall have power to make and adopt all such bylaws, rules, and regulations as they may deem necessary and expedient for the transaction of their business, not inconsistent with the general ordinances of the city, or the provisions of this Charter.

Sec. 14.4. Same—Annual estimate for library purposes.

On or before the fifteenth day of February of each year, the board shall submit to the council careful estimates in detail of the amount of money which, according to the judgment of the board, will be needed for the library facilities of the city during the ensuing fiscal year of the city, which estimates may be increased, modified or adopted by the council as in its judgment may seem justifiable.

Sec. 14.5. Same—Budget and appropriation for library board; additional expenditures. [Amend. No. 8, 10-3-1964]

The council shall, during the month of May, in each year, adopt a resolution providing a budget for, and an appropriation of the money needed by, the library board for the operation of the library facilities of the city during the ensuing fiscal year of the city. The board shall administer its own budget. With the consent of the council, the board may exceed any budget appropriation or allotment where it can transfer a sufficient amount therefor from unencumbered balances within its budget. All proposed expenditures of the library board which are not included in the board's budget, as approved by the council, shall be approved by the council, before any obligation for such expenditures shall be incurred by the board.

Sec. 14.6. Library receipts to city treasurer; library fund.

The board shall pay daily to the city treasurer all moneys received by it and shall file with him a detailed statement thereof and shall file a copy of such statement with the receipt of the treasurer attached thereto, with the clerk. The treasurer shall credit all such moneys to a fund within the accounts of the city, to be known as the "library fund."

CHAPTER 15
Public Improvements

Sec. 15.1. City may perform public work.

The council shall have power to do any public work or make any public improvement by the employment of the necessary labor and the purchase of the necessary supplies and material with separate accounting as to each improvement so made, or to do such work by contract duly let after competitive bidding. The council shall also have power to do any public work or make any public improvement under any legally constituted plan under which labor is furnished by any other government unit, department, or agency of the United States, or the State of Michigan, or which is wholly or in part financed by them or either of them.

Sec. 15.2. General powers relative to improvements and special assessments.

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.

Sec. 15.3. Resolution to proceed with public improvement.

No contract or expenditure, except for the cost of preparing necessary profiles, plans, specifications, and estimates of cost, shall be made for any public improvement, the cost of which is to be paid by special assessments upon the property benefited thereby, until the council has passed a resolution determining to proceed with such public improvement as hereinafter provided and required.

Sec. 15.4. Cost of acquired property added.

Whenever any property is acquired by condemnation, or otherwise, for the purpose of any public improvement, the cost thereof, and of the proceedings required to acquire such property, may be added to the cost of such improvement.

Sec. 15.5. Report of city manager.

Before the council shall consider the making of any public improvement, the same shall be referred by resolution to the city manager directing him to submit a report which shall include necessary plans, profiles, specifications, estimates of cost, an estimate of the life of the improvement, a description of the assessment district or districts, and such other pertinent information as will permit the council to decide the cost, extent, and necessity of the improvement proposed, and what part or portion thereof should be paid by special assessments upon the property benefited and what part, if any, should be paid by the city at large. The council shall not determine to proceed with the making of any local special improvement until such report has been submitted by the city manager, nor until after a public hearing thereon has been held by the council.

Sec. 15.6. Resolution of determination on project. [Amend. No. 5, 4-6-1953]

After the city manager has presented the report hereinbefore required for making any public improvement as requested in the resolution of the council and after it has reviewed said report, a resolution may be passed determining the necessity of the improvement; setting forth the nature thereof; prescribing what part or proportion of the cost of such improvement shall be paid by special assessment upon the property benefited, and what part, if any, shall be paid by the city at large; designating the limits of the special assessment district to be affected; designating the manner by which the benefits to be derived by such improvement by property located in such district shall be measured and assessed; designating a date and time when the council will hold a public hearing on such improvement, directing the clerk to publish notice of a public hearing for the purpose of giving an opportunity for interested persons to be heard, which notice shall be published at least one week prior to the holding of such hearing, and placing the complete information on file in the office of the clerk where the same may be found for examination.

Sec. 15.7. Vote required upon objections to improvement.

If at, or prior to, the hearing by the council on the making of any public improvement, more than 50% of the number of owners of privately owned real property to be assessed for any improvement shall object in writing to the proposed improvement, the improvement shall not

be made by proceedings authorized by this chapter without a 2/3 vote of the members of the council.

Sec. 15.8. Determination by the council; resolution of approval, etc.

At the public hearing on the proposed improvement, all persons interested shall be given an opportunity to be heard, after which the council may determine to proceed with the improvement without change, or to modify the scope of the public improvement or the assessment therefor, or both, as they [it] shall deem to be in the best interest of the city as a whole, or to abandon the improvement. If the determination of the council shall be to proceed with the improvement in any manner, a resolution shall be passed approving the necessary profiles, plans, specifications, and estimates of cost, and directing the assessor to prepare a special assessment roll in accordance with the council's determination and report the same to them for confirmation, which special assessment roll may be ordered to be made, either forthwith, or after the completion of the public improvement so ordered.

Sec. 15.9. Special assessment roll generally—preparation, etc.

The assessor shall make a special assessment roll of all lots and parcels of land within the designated district benefited by the proposed improvement and assess to each lot or parcel of land the amount which each such lot or parcel of land, together with the improvements thereon is deemed to be or capable of being benefited by the improvement to which such special assessment roll relates, together with the amount to be collected at the time of the collection of each installment of deferred special assessment, if the decision of the council shall be to collect the cost of such improvement in installments. The amount spread in each case shall be based upon the city manager's estimates of cost, as approved by the council; provided, that in the event that the special assessment roll is ordered to be made after the completion of the improvement ordered to be made by the council, the amount so spread shall be based upon the actual cost of the improvement.

Sec. 15.10. Same—Assessor to file assessment roll with clerk, etc.

When the assessor shall have completed such assessment roll, he shall file the same with the clerk for presentation to the council for review and confirmation by it.

Sec. 15.11. Same—Resolution of acceptance, etc.; meeting to review roll; objections, etc.

Upon receipt of such special assessment roll, the council, by resolution, shall accept such assessment roll and order it to be filed in the office of the clerk for public examination; shall fix the time and place the council will meet to review such special assessment roll, and direct the clerk to publish a notice of a public hearing for the purpose of giving an opportunity for interested persons to be heard. Such notice shall be made by publication at least one week prior to the holding of the hearing. The hearing required by this section may be held at any regular, adjourned, or special meeting of the council. At this meeting, all interested persons or parties shall present their objections or other comments, if any, to the making of the improvement or improvements contemplated and to the special assessment roll therefor.

Sec. 15.12. Same—Changes and corrections in assessment roll; confirmation of roll; liens for special assessments generally.

The council shall meet at the time and place designated for the review of such special assessment roll and, at such meeting, or adjourned meeting thereof, shall consider all objections thereto. The council may adopt the special assessment roll as submitted by the assessor; may correct said roll as to any special assessment or description of any lot or parcel of land or other errors appearing therein; or it may annul such assessment roll and the same proceedings shall be followed in making a new roll as the making of the original roll. If, after hearing all objections and making a record of such changes as the council deems justified, the council is satisfied with said special assessment roll as submitted by the assessor or as corrected by it, it shall thereupon pass a resolution confirming such roll, and commanding the treasurer to collect the various sums appearing thereon or, if so directed by the council, to spread the same upon the tax rolls of the city for the full amounts, or in annual installments if the decision of the council shall be to collect the costs of such improvements in installments.

Such roll shall have the date of confirmation endorsed thereon and shall from that date be final and conclusive for the purpose of the improvement to which it applies, subject only to adjustment to conform to the actual cost of the improvement, as provided in section 11.18 [15.18] of this chapter. All special assessments shall from the date of the confirmation of the roll therefor, constitute a lien upon the respective lots or parcels of land assessed, and shall be charged against the owner or owners of such lots or parcels of land or the heir or heirs or assign or assigns of such owner or owners, until paid.

Sec. 15.13. Deviation from plans and specifications.

No deviation from original plans or specifications, as adopted, shall be permitted by any officer or employee of the city without authority of the council by resolution. A copy of the resolution authorizing such change or deviation shall be certified by the clerk and attached to the original plans and specifications on file in his office.

Sec. 15.14. Collection of special assessments generally.

All special assessments, except such installments thereof as the council shall make payable at a future time as provided in this chapter, shall be due and payable upon confirmation of the special assessment roll. Within 10 days after such special assessment roll has been certified by the council, the clerk shall deliver such roll to the treasurer for the collection of the several sums assessed thereon.

Sec. 15.15. Payment of special assessments in installments. [Amend. No. 6, 4-6-1953; amend. No. 23, 11-7-1989]

The council may provide for the payment of special assessments in annual installments. Such annual installments shall neither exceed 15 in number nor extend beyond the stated useful life of the public improvement. The first installment shall be due upon confirmation of the roll and the deferred installments being due annually thereafter, or, in the discretion of the council, may be spread upon and made part of each annual city tax roll thereafter, until all annual installments have been spread. Interest shall be charged on all unpaid installments of

special assessments, from and after a date fixed by the council, which rate shall not exceed the rate established and permitted by law. The whole or any number of deferred installments, with interest accrued thereon, to the date of payment, may be paid in advance of the due dates as established therefor.

Sec. 15.16. Further provisions relative to special assessment liens; delinquent special assessments.

Special assessments, from the date of the confirmation of the roll for the public improvement to which they apply, and all interest and collection and penalty charges thereon shall be and remain a lien upon the property assessed of the same character and effect as the lien created by general law for state and county taxes, and by this Charter for city taxes, until paid. Special assessments and installations thereof which are collected on the city tax rolls shall be subject to the same collection fees and interest charges as are provided under this Charter for city taxes collected on the same rolls. The lands upon which any delinquent special assessments, collection fees, and interest charges, are a lien, shall be subject to sale, the same as are the lands upon which delinquent city taxes are a lien and subject to sale.

Sec. 15.17. Abatement or removal of hazards and nuisances.

When any lot, building or structure within the city, because of accumulation of refuse, or debris, the uncontrolled growing of noxious weeds, or of 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, safety or welfare of the inhabitants of the city or by those residing or habitually going near such lot, building, or structure, the council may, after investigation, give notice by publication or by registered mail addressed to the last known address of the owner or owners of the land upon which such nuisance exits, or to the owner of the building or structure itself, specifying the nature of the nuisance and requiring such owner to alter, repair, tear down, abate or remove the nuisance promptly and within a time to be specified by the council, which shall be commensurate with the nature of the nuisance. If, at the expiration of the time limit in said notice, the 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 are 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, or may do the work by contract or by hire. The cost of such abatement may be assessed against the lot, premises, or description of real property upon which such hazard or nuisance is located by special assessment. The council shall determine what amount or part of each such expense shall be charged, and the person, if known, against whom, and the premises upon which the same shall be levied as a special assessment; and as often as the council shall deem it expedient, it shall require all of the several amounts so reported and determined, and the several lots or premises and the persons, chargeable therewith, respectively, to be notified by the clerk either by registered mail sent to their last known address as shown on the assessment roll of the city or by publication. Such notice shall state the basis of the assessment, the cost thereof, and shall give a reasonable time, which shall not be less than 30 days, in which payment shall be made. In all cases where payment is not made within the time limit, the same shall be reported by the clerk to the assessor who shall spread such amounts charged against the several persons or descriptions of real property chargeable therewith on the next tax roll for the collection of city taxes.

The council may declare acts or conditions which are or may be dangerous to the health, safety, or welfare of the inhabitants of the city to constitute hazards or nuisances, by ordinance, and shall in such ordinance or ordinances provide for the abatement thereof and may also provide that the costs of such abatement be charged against the lot, premises, or description of real property on which the hazard or nuisance is located and the owner thereof as a special assessment.

Sec. 15.18. Additional assessments; refunds.

The city manager shall, within 60 days after the completion of each public improvement, compile the actual cost thereof and certify the same to the treasurer, who shall adjust the special assessment roll to correspond therewith, subject to the limitation contained in section 11.9 [15.9]. When any special assessment roll shall prove insufficient to meet the costs of the improvement for which it was made, the council shall make an additional pro rata assessment, but the total amount assessed shall not exceed the value of benefits received by any lot or parcel of land. Should the assessment prove larger than necessary by 5% or less, the council may place the excess in the city treasury. If more than 5%, the excess shall be refunded pro rata according to assessments. In either case, the council may provide by resolution that the amount of any such excess may be allowed as a credit on the last installment where such installment still remains unpaid at the time the final cost of the improvement is determined.

Sec. 15.19. Provisions particularly applicable to sidewalks. [Amend. No. 19, 11-8-1983; amend. of 1-28-1997]

The council shall have the power to require the owners of lots and premises to build, construct, rebuild, reconstruct, and repair sidewalks in the public streets adjacent to and abutting upon such lots and premises, and to keep them in repair at all times, and to construct and lay the same upon such lines and grades, and of such width, materials, and manner of construction or reconstruction. The procedure to implement the construction, reconstruction, and repair of sidewalks, including the payment thereof, shall be set forth by ordinance and shall provide for notice and hearing to an affected property owner prior to the construction, reconstruction, or repair. The council, may, by ordinance, provide that if any owner or occupant shall fail or refuse to build, reconstruct, and repair any such sidewalk, the council may proceed to order the sidewalk to be built, reconstructed, and repaired. In the event of new construction of sidewalks, the council may provide, by ordinance, that the cost of the public improvement be paid in equal annual installments, plus interest accruing thereon, at a rate and for a duration as determined by the council. In no event shall the annual installments of principal plus interest exceed the estimated useful life of the public improvement. The payment of the costs of the public improvement shall be in the same manner as set forth in chapter 15 hereof relating to special assessments, the terms thereof being incorporated herein by reference.

In the event of the repair, reconstruction, or rehabilitation of the sidewalks, the council, may provide, by ordinance, that the cost of the public improvement may be paid in the manner prescribed in section 15.20. The council, may, by a 2/2 vote of its full membership, pay such part of the expense of building or rebuilding any sidewalk as it may deem proper from the general funds of the city.

Nothing contained herein shall limit or restrict the power and authority of the council to proceed with a sidewalk public improvement pursuant to the other provisions of chapter 15 of this Charter or statutes of this state.

Sec. 15.20. Assessments on single lots. [Amend. No. 19, 11-8-1983]

When any expense shall be incurred by the city for a public improvement or reconstruction in respect to a separate or single lot, parcel of land, or land or premises, which, by the provisions of this Charter, the council is authorized to charge and collect as a special assessment against the same, which is not of that class of special assessment required to be made pro rata upon several lots or parcels of land in a special assessment district, an account of the labor or services for which such expense was incurred, verified by the city manager, with respect to the lot, or the name of the owner or person, if known, chargeable therewith, shall be reported to the council in such manner as it may prescribe. The council shall determine what amount or part of the cost of any such expense shall be charged, and the person, if known against whom, and the premises upon which, the same shall be levied as a special assessment; and as often as the council shall deem it expedient, it shall require all of the several amounts so reported and determined, and the several lots or premises and persons chargeable therewith respectively to be notified by the clerk either by first class mail, sent to their last known address as shown on the assessment roll of the city or by publication. Such notice shall state the basis of the assessment, the cost thereof, and shall give a reasonable time as determined by the council in which payment shall be made. In all cases where payment is not made within the time limit, the same shall be reported by the clerk to the assessor who shall spread such amounts against the several persons or descriptions of real property chargeable therewith on the next roll for the collection of taxes.

Sec. 15.21. Additional procedures.

In any case where the provisions of this Charter may prove to be insufficient to carry into full effect the making of any special assessments, the council shall provide by ordinance any additional steps or procedures required to effect the improvement by special assessment procedures.

Sec. 15.22. Special assessment funds and accounts.

Except as otherwise provided in this chapter, moneys raised by special assessment to pay the cost of any local improvement shall be held in a special fund to pay such cost or to repay any money borrowed therefor and each special assessment account must be used only for the improvement project for which the assessment was levied.

Sec. 15.23. Contesting, etc., assessments.

Except and unless notice is given to the council in writing of an intention to contest or enjoin the collection of any special assessment for the construction of any public improvement or the removal or abatement of any public hazard or nuisance, within 15 days after the date of the resolution of the council confirming the assessment roll for such improvement, as provided in section 15.12 of this chapter, which notice shall state the grounds on which the

proceedings are to be contested, no suit or action of any kind shall be instituted or maintained for the purpose of contesting or enjoining the collection of such special assessment.

Sec. 15.24. Reassessment for benefits.

Whenever the council shall deem any special assessment invalid or defective for any reason whatever, of if any court of competent jurisdiction shall have adjudged such assessment to be illegal for any reason whatsoever, in whole or in part, 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 completed or not, and whether any part of the assessment has been collected or not. All proceedings on such reassessment and for the collection thereof shall be made in the same manner as provided for the original assessment. If any portion of the original assessment shall have been collected and not refunded, it shall be applied upon the reassessment and the reassessment shall, to that extent, be deemed satisfied. If more than the amount reassessed shall have been collected, the balance shall be refunded to the person or persons making such payment.

CHAPTER 16
Miscellaneous Provisions

Sec. 16.1. Liability of city for damages; notice to city of claim for injuries; proof of claim, etc.

The city shall not be liable in damages for injury sustained by any person, either to his person or property, by reason of the negligence of the city, its officers or employees, or by reason of any defective public works or public service improvement or facility, or by reason of any obstruction, ice, snow, or other encumbrance thereon unless, within 60 days after such injury shall have occurred, such person or his representative shall serve or cause to be served upon the clerk, a notice in writing which shall set forth substantially the time and place of such injury, the manner in which it occurred, the nature of the act or defect complained of, the extent of such injury as far as the same has become known, the names and addresses of the witnesses known at the time to the claimant, and a statement that the person receiving such injury intends to hold the city liable for such damages as may have been sustained by him. No person shall bring any action for injury to person or property arising out of any of the reasons or circumstances aforesaid, unless brought within the period limited by law from the time such injury was sustained, nor unless he shall have first presented to the clerk his claim in writing and under oath, setting forth particularly the nature and extent of such injury and the amount of damages claimed by reason thereof, which claim shall be presented to the council by the clerk and the council shall be given an 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.

Sec. 16.2. Limitation on platting.

Lands or premises hereafter laid out, divided, and platted into lots, streets, and alleys within the city, shall comply with the provisions of state law and shall be subject to the approval of the council. The city shall not be responsible for the improvement of streets and alleys shown on any plot approved by it, excepting such as the council shall accept and confirm by resolution.

Sec. 16.3. Publication of notices, etc.

The council shall determine the method of publication of all notices, ordinances, and proceedings for which a mode of publication is not prescribed by this Charter or by law. The council may determine that such publication may be made in a newspaper which is printed or circulated in the city, or that such publication may be made by posting in the office of the clerk and in five other places in the city. In case publication is made by posting, a notice of such posting setting forth, by a description thereof, the purpose or nature of the notice, ordinance, or proceeding posted, and the location of the place where posted, shall be published at least once in a newspaper published or circulated in the city within seven days after such posting was done.

Sec. 16.4. City records to be public.

All records of the municipality shall be public.

Sec. 16.5. No estoppel by representation.

No official of the city shall have power to make any representation or recital of fact in, or which may be deemed to constitute a part of, any franchise, contract, document, or agreement, contrary to any public record of the city. Any such representation shall be void and of no effect as against the city.

Sec. 16.6. Continuation of rights and liabilities.

The adoption and taking effect of this Charter shall not discharge, impair, or limit any right vested in or liability incurred by the City of Holland at the time this Charter became law.

Sec. 16.7. Tense.

Except as otherwise specifically provided or indicated by the context, all words used in this Charter indicating the present tense shall not be limited to the time of 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 therein, either as a power, immunity, requirement, or prohibition.

Sec. 16.8. Number and gender.

As used in this Charter, every word importing the singular number only, may extend to and embrace the plural number and every word importing the plural number may be applied and limited to the singular number. Every word importing the masculine gender only shall be extended and applied to the feminine as well as the masculine gender.

Sec. 16.9. Public schools of the city.

The adoption of this Charter by the people of Holland and the taking effect thereof as law shall not affect, nor extend to or include the government of the school district comprising the City of Holland known as the "Public Schools of the City of Holland" and all provisions of law relating to and affecting such school district shall continue to apply to and govern such school district without any change whatsoever.

Sec. 16.10. Chapter headings and catchlines not part of Charter.

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

Sec. 16.11. 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 part of the Charter, except that specifically affected by such holding.

Sec. 16.12. Amendments.

This Charter may be amended at any time in the manner provided in Act No. 279 of the Public Acts of 1909, as amended.[12] Should any two or more amendments, adopted at the same election, have conflicting provisions, the one receiving the largest affirmative vote shall prevail as to those provisions.

12. Editor's Note: See M. S. A., § 5.2071 et seq.

PART II

CODE OF ORDINANCES

Chapter 1

GENERAL PROVISIONS

Sec. 1-1. Designation and citation of Code generally.

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

Sec. 1-3. Division of Code; numbering of sections.

Sec. 1-4. Headings and catchlines.

Sec. 1-5. Citation of individual Code provisions.

Sec. 1-6. Service of notice.

Sec. 1-7. Publication, etc., of rules and regulations.

Sec. 1-8. Title of officer to include deputy, etc.

Sec. 1-9. Effect of repeal.

Sec. 1-10. General penalty; continuing violations.

Sec. 1-10.1. Authority of certain officers and others to issue and serve appearance tickets, notices to appear, etc.

Sec. 1-10.2. Additional remedies in case of nuisances.

Sec. 1-11. Aiding, abetting, etc., violation of Code, etc.

Sec. 1-12. Construction and severability of Code.

Sec. 1-13. Procedure to amend Code.

Sec. 1-14. Replacement of mutilated, lost, etc., bonds issued by City.

Sec. 1-15. Lost, stolen, abandoned and unclaimed personal property.

Sec. 1-16. Wards.

Sec. 1-17. Precincts.

Sec. 1-1. Designation and citation of Code generally. [Code 1955, § 1-1.1]

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

Sec. 1-2. Definitions and rules of construction. [Code 1955, §§ 1-1.7, 1-1.9, 1-1.10; Ord. No. 666]

In the construction of this Code and all amendments thereto, and all other ordinances of the City, the following definitions and rules shall be observed, unless the context clearly requires otherwise, or unless such interpretation and construction would be inconsistent with the manifest intent of the City Council:

CHARTER — The Charter of the City of Holland, Michigan.

CITY — The City of Holland, Michigan.

CITY COUNCIL — The word "Council" or the words "City Council" mean the legislative body of the City of Holland, Michigan.

COMPUTATION OF TIME — The time within which an act is to be done, as provided in this Code or in any order issued pursuant to this Code, when expressed in days, shall be computed as prescribed by state statute.

COUNTY — The word "county" shall mean either the County of Ottawa or the County of Allegan, or both, or as the case may be, in the State of Michigan.

GENDER — Every word of the masculine gender may be extended and applied to the feminine or neuter as well as to the masculine gender, and every word of the neuter gender, may be extended and applied to the feminine or masculine as well as the neuter gender.

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

MONTH — The word "month" shall be construed as to mean a calendar month.

NUMBER — Every word of the singular number may extend to and embrace the plural number, and every work of the plural number may include and be applied to the singular number.

OATH; AFFIRMATION; SWORN; AFFIRMED — The word "oath" shall be construed to include the word "affirmation" in all cases where by law an affirmation may be substituted for an oath; and in like cases the word "sworn" shall be construed to include the word "affirmed."

OFFICERS — The several officers' titles mean such officers of the City, or their deputies or authorized subordinates or agents, as provided in Section 1-8.

OWNER — The word "owner," applied to a building or land, shall include any part owner, land contract vendee, joint owner, tenant in common, tenant in partnership, joint tenant, tenant by the entirety or optionee of the whole or of a part of such building or land.

PERSON — The word "person" shall include any individual, copartnership, association, unincorporated club, joint venture and any other group or combination acting as a unit, and the individuals constituting the same, any corporation and the fiduciary of any estate or trust.

PRECEDING; FOLLOWING — The words "preceding" and "following" mean next before and next after, respectively.

PROPERTY — The word "property" shall include real estate and personal property.

PUBLIC PLACE — The words "public place" mean any street, alley, service drive, parking lot or area, public building, any place of business or assembly, or any other premises open to or frequented by the public; provided, that drives and parking lots or areas serving residential dwellings of three or less living units are excluded.

SEAL — In all cases in which the seal of any court or public office shall be required to be affixed to any paper issuing from such court or office, the word "seal" shall be construed to mean the impression of such seal on such paper alone, as well as the impression of such seal affixed thereto by means of a wafer or wax.

SHALL; MAY — The word "shall" means imperative or mandatory; the word "may" means permissive.

SIGNATURE; SUBSCRIPTION — The words "signature" and "subscription" include a mark when the person cannot write.

STATE — The word "state" means State of Michigan.

STREET; HIGHWAY; ALLEY — The words "street" and "highway" shall mean all property which is subject to an easement for public right-of-way, or which is owned in fee and devoted to such purpose by the City, county or state. The word "alley" shall mean any such way or place providing a secondary means of ingress and egress from a property.

SUNDAYS; LEGAL HOLIDAYS — Whenever any act required to be done pursuant to the provisions of this Code or any ordinance falls on a Sunday or legal holiday, that act shall be performed on the next succeeding business day.

TENSE — All words used in the present tense shall not be limited to the time adoption of this Code but shall extend to and include the time of the happening of any act, event or requirement for which provision is made herein, either as a power, immunity, requirement or prohibition.

TIME — Whenever time is referred to, it means Eastern Standard Time or the time officially in force in the City.

WEEK — The word "week" shall be construed to mean seven days.

WRITTEN; IN WRITING — The words "written" or "in writing" may include any form or reproduction or expression of language.

YEAR — The word "year" shall be construed to mean a calendar year and the word "year" alone shall be equivalent to the words "year of our Lord."

Sec. 1-3. Division of Code; numbering of sections. [Code 1955, § 1-1.2]

This Code is divided into chapters, articles, divisions and sections. A section number is assigned to each section of the Code for identification purposes. Such section number is in two parts and is arranged so that the left hand number, followed by the dash, designates the chapter number, and the number following the dash, together with the chapter numbers, designates the section itself.

Sec. 1-4. Headings and catchlines. [Code 1955, § 1-1.4]

All words and phrases set in capital letters or underlined at the beginning of the chapters, articles, divisions, sections and subsections of this Code shall constitute chapter, article, and division headings and catchlines of sections and subsections and are not a part of this Code, but are for convenience only and, as such, shall not be available or used for any purpose or construction or interpretation of this Code or of any chapter, article, division, section, or any portion thereof.

Sec. 1-5. Citation of individual Code provisions. [Code 1955, § 1-1.3]

Each provision of this Code may be cited by its assigned section number, and no other citation of any provision shall be required for any purpose.

Sec. 1-6. Service of notice. [Code 1955, § 1-1.11]

Except where the manner of service of notice is specifically provided for in Sections 15.17 or 15.20 of the City Charter, or in any section of this Code requiring notice, notice required to be given by this Code shall be served:

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

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

(c) By posting such notice in some conspicuous place on the premises; or

(d) By publication of either such notice or the proceedings of the Council at which the action regarding the same was taken.

Sec. 1-7. Publication, etc., of rules and regulations. [Code 1955, § 1-1.12]

Except as otherwise provided by the City Charter or by this Code, all rules and regulations made by the administrative officers of the City which are required to make effective the provisions of this Code shall become effective after the approval thereof by the Council and the filing of a certified copy thereof in the office of the City Clerk. Copies of all such rules and regulations shall be kept in the office of the City Clerk for public inspection and distribution.

Sec. 1-8. Title of officer to include deputy, etc. [Code 1955, § 1-1.8]

Whenever, by the provisions of this Code, any officer of the City is assigned any duty or empowered to perform any act or duty, the title of such officer shall mean and include such officer or his or her deputy or authorized subordinate or agent.

Sec. 1-9. Effect of repeal.

The repeal of any provision of this Code or other ordinance or part thereof shall not release or relinquish any penalty, forfeiture or liability incurred under such provision of this Code or other ordinance or any part thereof, unless the repealing ordinance shall expressly so provide, and such provision of this Code or other ordinance or part thereof shall be treated as still remaining in force for the purpose of instituting or sustaining any proper action or prosecution for the enforcement of such penalty, forfeiture or liability.

Whenever any provision of this Code or any ordinance, or any part thereof, is repealed by a subsequent ordinance, such provision of this Code or ordinance or any part thereof so repealed shall not be revived by the repeal of such subsequent repealing ordinance.

Sec. 1-10. General penalty; continuing violations.[1] [Code 1955, § 1-1.13; Ord. No. 1240, 3-24-1999]

(a) Unless a violation of this Code or any ordinance of the City is specifically designated in the code or ordinance as a municipal civil infraction, or unless another penalty is expressly provided by this Code or any ordinance of the City for any particular provision or section, this section shall apply.

(b) Whenever in this Code or in any ordinance of the City an act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or the doing of any act is required or the failure to do any act is declared to be unlawful or an offense or a misdemeanor, where no specific penalty is provided therefore, the violation of any such provision of this Code or any other ordinance of the City shall be punished by a fine and costs, the total of which fine and costs shall not exceed $500, or by imprisonment for not more than 90 days, or by both such fine and imprisonment.

Each act of violation, and every day upon which such violation shall occur or continue, shall constitute a separate offense.

The penalty provided in this section, unless another penalty is expressly provided therein, shall apply to every addition to this Code and to the amendment of any section thereof without the necessity of providing such penalty in the ordinance making any such addition or amendment.

In addition to the penalty prescribed in this section, the City may pursue any equitable remedy for a violation of this Code or any ordinance of the City provided by a provision of this Code, or a provision of a technical or other code adopted by reference in this Code, or a rule, regulation or order promulgated or made under the authority of either, or provided by state law, or a rule, regulation or order promulgated or made under the authority of state law, including, but not limited to, the enforced removal of prohibited conditions, injunctive relief and revocation of licenses or permits.

Sec. 1-10.1. Authority of certain officers and others to issue and serve appearance tickets, notices to appear, etc. [Ord. No. 891; Ord. No. 1240, 3-24-1999; Ord. No. 1256, 8-4-1999; Ord. No. 1344, 8-7-2002; 5-14-2014 by Ord. No. 1629; 2-21-2018 by Ord. No. 1725]

(a) Any officer or reserve officer of the City Police Department shall have the authority to issue appearance tickets, citations or parking violation notices for violations of the provisions of this Code which occur in his or her presence.

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1. Editor's Note: See also Ch. 2, Art. XVII, Municipal Civil Infractions.

(b) When authorized by City Council resolution, volunteers trained by the Holland Department of Public Safety shall have the authority to issue citations for parking violations as provided for by law, including as provided for by MCLA § 257.675d.

(c) When authorized by City Council resolution pursuant to MCLA § 257.742(6), nonpolice officer City personnel, trained by the Holland Department of Public Safety and approved by the Chief of Police, shall have the authority to issue citations for parking violations as provided for by law, but excluding citations for those violations as set forth in MCLA § 257.675d(1)(a) through (j).

(d) The enforcing officers under the provisions of Chapters 3, 4, 6, 7, 8, 9, 11, 12, 14, 15, 16, 17, 18, 19, 21, 21A, 24, 25, 26, 27, 29, 30, 31, 32, 34, 35, 37, 38, 39 and 40 of this Code shall have the authority to issue and serve appearance tickets or notices to appear for violations of the provisions of those chapters.

(e) The enforcing officers under the provisions of Chapters 4, 6, 8, 11, 12, 14, 18, 19, 22, 24, 25, 27 and 29 of this Code shall have the authority to issue and serve municipal civil infraction notices or municipal civil infraction citations for violations of the provisions of those chapters.

Sec. 1-10.2. Additional remedies in case of nuisances. [Ord. No. 1240, 3-24-1999; Ord. No. 1307, 7-3-2001]

In the event that the doing of any act or the permitting of a condition to exist is declared to be a nuisance per se by any section of this Code, the doing of such act or permitting of such condition to exist may result in injunctive relief being sought in a court of competent jurisdiction or the abatement of such nuisance by the procedures provided and permitted in the City Charter in addition to or as an alternate procedure to any penalty already imposed by any section of this Code. As authorized in Section 15.17 of the Charter of the City of Holland, in any judicial or administrative action to abate a nuisance per se, the City shall be entitled to recover its costs (including the cost of administrative staff time) and reasonable attorney fees incurred to investigate and abate a nuisance, whether incurred before or after the commencement of litigation. As further authorized in Section 15.17 of the Charter of the City of Holland, the City shall have a lien against the property subject to the abatement proceedings for all such costs and attorney fees awarded under this Section 1-10.2 and may enforce the lien in the manner prescribed by the general laws of the state providing for the enforcement of special assessments.

Sec. 1-11. Aiding, abetting, etc., violation of Code, etc. [Code 1955, § 1-1.6; Ord. No. 1240, 3-24-1999]

Unless a violation of this Code or any ordinance of the City is specifically designated in this Code or any ordinance as a municipal civil infraction, whenever any act or omission to act is a violation of any provision of this Code, or any amendment thereto, or any rule or regulation adopted thereunder, any person causing, securing, aiding or abetting such violation may be prosecuted and tried and, on conviction, shall be punished as if he or she had directly committed such violation.

Sec. 1-12. Construction and severability of Code. [Code 1955, § 1-1.15.]

It is the legislative intent of the Council, in adopting this Code, that all provisions of this Code be liberally construed to protect and preserve the peace, health, safety and welfare of the inhabitants of the City, and should any provision of this Code or part thereof be held unconstitutional or invalid, such holding shall not be construed as affecting the validity of any of the remaining provisions, it being the intent that the remainder of this Code shall stand, notwithstanding the invalidity of any provision thereof.

The provisions of this section shall apply to every addition to this Code and to the amendment of any section of this Code whether or not the wording of this section is set forth in the amendatory ordinance.

Sec. 1-13. Procedure to amend Code. [Code 1955, § 1-1.5.]

This Code shall be amended by ordinance. The title of each such amendatory ordinance, adapted to the particular circumstances and purposes of the amendment, shall be substantially as follows:

(a) To amend any section:

AN ORDINANCE TO AMEND THE CODE OF THE CITY OF HOLLAND, MICHIGAN, BEING ORDINANCE NO. _____, OF THE CITY OF HOLLAND, BY AMENDING SECTION _____ (OR SECTIONS _____ AND _____) OF SAID CODE.

(b) To insert a new section, article or chapter:

AN ORDINANCE TO AMEND THE CODE OF THE CITY OF HOLLAND, MICHIGAN, BEING ORDINANCE NO. _____ OF THE CITY OF HOLLAND, BY ADDING A NEW SECTION (_____ NEW SECTIONS, A NEW ARTICLE, OR A NEW CHAPTER, AS THE CASE MAY BE) WHICH NEW SECTION (SECTIONS, ARTICLE, OR CHAPTER) SHALL BE DESIGNATED AS SECTION _____ (SECTIONS _____ AND _____) (OR PROPER DESIGNATION IF AN ARTICLE OR CHAPTER IS ADDED) OF SAID CODE.

(c) To repeal a section, article or chapter:

AN ORDINANCE TO AMEND THE CODE OF THE CITY OF HOLLAND, MICHIGAN, BEING ORDINANCE NO. _____, OF THE CITY OF HOLLAND, BY REPEALING SECTION _____ (SECTIONS _____ AND _____) (OR ARTICLE _____ OR CHAPTER _____) OF SAID CODE.

Sec. 1-14. Replacement of mutilated, lost, etc., bonds issued by City.[2] [Ord. No. 531, §§ 1, 2.]

In case any bond heretofore or hereafter issued by the City shall become mutilated or be destroyed, stolen or lost, the City shall execute and deliver a new bond (with appropriate

2. Editor's Note: See also Charter Sections 9.12 and 9.13.

coupons attached in the case of coupon bonds) of like maturity and principal amount as the bond so mutilated, destroyed, stolen or lost. Such new bond shall be delivered in exchange and substitution for a mutilated bond, upon surrender and cancellation of such mutilated bond and attached coupons, if any, or in lieu of and substitution for a bond and the coupons thereof, if any, destroyed, stolen or lost, upon filing with the City Clerk evidence satisfactory to him or her that such bond and attached coupons, if any, have been destroyed, stolen or lost and proof of ownership thereof, and upon furnishing the City Clerk with indemnity satisfactory to him or her and paying such expenses as the City may incur in issuing such new bond.

In the instance a trustee is appointed for any bonds issued or to be issued by the City, such trustee shall act instead of and in place of the City Clerk in performing the duties and functions set forth in the preceding paragraph of this section.

Sec. 1-15. Lost, stolen, abandoned and unclaimed personal property. [Ord. No. 536]

The Police Department of the City shall be charged with the custody of such lost, stolen, abandoned or unclaimed personal property as may come into its possession, whether surrendered to the City or to any agent thereof, or recovered by any agent of the City, and shall dispose of the same as provided in this section.

(a) Claim and recovery by owner. All such personal property in the custody of the Police Department of the City may be claimed and recovered by the rightful owner thereof, upon submitting satisfactory proof of ownership to the Police Department, and upon paying such costs and fees as may have been incurred and charged in the recovery and storage of such property.

(b) Procedure for disposition of unclaimed property. All such personal property as shall remain in the custody of the Police Department for a period of 30 days, without being claimed by the rightful owner thereof, shall be disposed of as follows:

(1) The person who surrendered such property to the City shall be given written notice to claim the same within 30 days from date of notice.

(2) If such property shall have been recovered by an agent of the City, or if the person who surrendered the same to the City shall not make claim thereto as above provided, such property shall be disposed of as follows:

a. If the apparent value thereof shall exceed $10, the same shall be sold at public auction, with notice thereof to be posted in three conspicuous places in the City, and notice to be published in a newspaper of general circulation within the City, all such notices to be at least 10 days prior to the date of such sale.

b. If the apparent value thereof shall be less than $10, the same may be disposed of in any reasonable and feasible manner.

(c) Records to be kept. The Police Department of the City shall keep a permanent record of all such property, the person surrendering the same to the City, the apparent value thereof and the disposition thereof.

(d) Disposition of proceeds of sale. All proceeds from the sale of such personal property, less expenses, shall be deposited with the City Treasurer and shall be credited to the general fund.

(e) Notices generally; when sales to be held. Notices required by this section may cover more than one item of personal property, and shall describe all such personal property as accurately as possible. Public sales pursuant hereto shall be held annually, or more often, if required.

(f) Exceptions. The public auction provisions contained herein shall not apply to money, and none of the provisions herein contained shall apply to animals or motor vehicles.

(g) Effect of section. Nothing herein contained shall be deemed to alter the legal relationship between the finder of personal property and the true owner thereof.

Sec. 1-16. Wards. [Ord. No. 461; Ord. No. 597; Ord. No. 796; Ord. No. 1047, 4-1-1992; Ord. No. 1332, 3-21-2002; Ord. No. 1539, 1-6-2010]

The City shall consist of six wards, the boundaries and numbers of which are hereby established as shown on a map entitled "The Ward and Precinct Map of the City of Holland, Michigan, adopted January 6, 2010" which accompanies this ordinance and is made a part hereof, said ward boundaries being shown in solid, unbroken lines, and which follow the center lines of the streets designated by such boundaries, where applicable.

Sec. 1-17. Precincts. [Ord. No. 461; Ord. No. 511; Ord. No. 566; Ord. No. 597; Ord. No. 708; Ord. No. 796; Ord. No. 1047, 4-1-1992; Ord. No. 1332, 3-21-2002]

Each ward of the City is hereby divided into two or more voting precincts as shown and numbered on the map referred to in Section 1-16 of this Code by dotted lines, which lines follow the center lines of the streets designated. Ward 1, Precinct 2 follows the center line of said streets as designated. However, a portion of the north line of Ward 1, Precinct 2 begins 857.31 feet south of NW corner of Section 26, T5N, R15 west and continues due east to the west 1/8 line; thence north to the center of Black River; thence easterly and southeasterly to the north/south 1/4 line of Section 26; the same being the east boundary of City limits. The number of each precinct is in two parts and is arranged so that the left hand number, followed by a dash, designates the ward number, and the number following the dash designates the precinct number of that ward.

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ARTICLE I
In General

Sec. 2-1. City records; disposition of certain records. [Code 1955, § 1-2.1; amended 1-17-2018 by Ord. No. 1704]

Records of the City which are deemed by the City Council to be of no further value to the City may be disposed of in a manner provided in § 11 of Act No. 470 of the Public Acts of 2016, as amended (MCLA § 399.811).

Sec. 2-2. Records inventory. [Code 1955, § 1-2.2]

The City Manager shall cause to be compiled and maintained an inventory of all City records affected by the provisions of the statute referred to in Section 2-1. Such inventory shall state the quantity, physical location and function of such records and shall establish a schedule of disposition, which schedule and amendments thereto shall become effective upon approval by the City Council, the Sate Historical Commission and the State Administrative Board.

ARTICLE II

Personnel Regulations

Sec. 2-3. Short title and purpose. [Ord. No. 557; 11-19-2014 by Ord. No. 1642]

This article shall be known as the personnel regulations of the City. Its purpose shall be to set forth and establish the personnel policies of the City for all its classified employees who are paid, in whole or in part, from funds which are budgeted and approved by the City Council, such purpose being in the spirit of Section 6.16 of the City Charter which inspires each group and individual in the employ of the City to the highest levels of ability in an atmosphere of mutual trust and respect which shall result in fair and equitable treatment of employees and improved administration, increased efficiency and economy of operation of the City's affairs.

Sec. 2-4. Definitions. [Ord. No. 557; 11-19-2014 by Ord. No. 1642]

For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section, unless the context clearly requires a different meaning:

CLASS; JOB CLASS — Positions in classified City employment sufficiently alike to permit use of such single descriptive job title, the same qualifications requirements, the same tests of competence and the same pay scale. Each "class" or "job class" shall be assigned a "class number."

CLASSIFIED EMPLOYEE — An employee of the City in its classified service as set forth in Section 2-7.

EXEMPT EMPLOYEE — An employee of the City in its exempt service as set forth in Section 2-6.

FULL-TIME EMPLOYEE — An employee whose regular workweek is the workweek normally scheduled for the position, on a continuing basis, including evening, night or weekend scheduling which may be required by the position.

PART-TIME EMPLOYEE — An employee who regularly works less than the workweek usually scheduled for the position.

POSITION — A collection of job tasks; a job, within a class, to which an employee is specifically assigned. Each "position" shall be designated by a "position number."

PROBATIONARY EMPLOYEE — As to a full-time employee, one who, at the effective date of the ordinance from which this article derives[1], has not held his/her position at such date for 12 continuous, consecutive months, or who, thereafter, has not completed such period of employment. It shall mean, as to a part-time employee, one who has not completed the probationary period which shall be extended to equate with that of a full time employee, but which shall not be longer than 12 months.

REGULAR EMPLOYEE — An employee who has completed his/her probationary period.

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1. Editor's Note: The ordinance from which this article derives became effective 12-11-1968.

STATUS — An employee's situation with respect to being a regular employee or a probationary employee.

TEMPORARY EMPLOYEE — An employee whose employment, at the time he/she is hired, is reasonably anticipated to be for a duration of one year or less because of project or seasonal requirements or other qualifying circumstances.

UNIT OF GOVERNMENT — The major City functions including the general City services and the Holland Board of Public Works.

Sec. 2-5. Classification of employees. [Ord. No. 557; 11-19-2014 by Ord. No. 1642]

Each employee of the City shall be considered to be within either the classified service or the exempt service by virtue of the position he/she occupies.

Sec. 2-6. Composition of exempt service. [Ord. No. 557; 11-19-2014 by Ord. No. 1642]

The exempt service shall include the following:

(a) All elected officials and members of boards and commissions appointed by the Mayor and City Council.

(b) The City Manager, City Attorney, contract employees, Superintendent of Utilities, Assistant Superintendent of Utilities, and such other positions as may from time to time be determined by resolution of the Council.

(c) Consultants, counsel and contract employees rendering advisory services.

(d) Employees performing part-time or temporary work who may be specifically placed in the exempt service by the personnel rules.

Sec. 2-7. Composition of classified service. [Ord. No. 557; 11-19-2014 by Ord. No. 1642]

The classified service shall include all employees of the City, including but not limited to the general City and the Holland Board of Public Works, that are not specifically placed in the exempt service by the provisions of Section 2-6.

Sec. 2-8. Applicability of Sections 2-9 to 2-15. [Ord. No. 557; 11-19-2014 by Ord. No. 1642]

The provisions of Sections 2-9 to 2-15 shall apply only to the classified service.

Sec. 2-9. Personnel policies and objectives generally. [Ord. No. 557; 11-19-2014 by Ord. No. 1642]

The declared personnel policies and objectives of the City shall include the following and such others as may hereafter be adopted by City Council and are based on the dual

recognition of the employees' rights and responsibilities and the City Council's responsibilities for the orderly and efficient operation of City functions:

(a) To so organize the duties and responsibilities of the employees of the City so as to allow for assignment of personnel for the effective accomplishment of the mission of the unit of City government concerned and so that employees shall be classified according to related job duties.

(b) To describe, in writing, the job duties of each class, and to provide for establishment and direction of the positions therein by the appropriate unit of City government.

(c) To develop a compensation plan which will reflect fairly the differences in duties and responsibilities of the classes established and which will assure, to the extent practicable, similar pay treatment for similar work; which will reflect salary and wage rates which compare favorably with those in the area for comparable positions; and which provide a means of rewarding employees for continued good or outstanding service.

(d) To provide a group of compensation supplements (so-called "fringe benefits") such as, for illustration only, sick leave, vacation, health insurance and pension, which shall be those applicable to any position as of the effective date of the ordinance from which this article derives,[2] to review the same and make adjustments therein, if necessary, to the end that employees performing similar work and meeting other requirements that are similar shall receive similar total remuneration under the compensation plan and in the cost of the compensation supplements provided to the employee; and to make adjustments in the types of compensation supplements and in the extent of each, as may tend towards uniformity of the types of salary supplements and the extent of each, throughout the classified service of the City.

(e) To provide services, privileges and benefits to employees such as, for illustration only, bulletin boards, meal facilities, parking facilities and long-service awards, as may be appropriately provided to the class of the employee and his/her particular place of performing the work of his/her position.

(f) To establish for each position a work schedule which is as attractive as is practicable considering all the circumstances of such position.

(g) To establish for each position the rules such as, for illustration only, disaster, fire, conduct and safety, which reflect the standards of reasonable conduct sensibly expected of an employee in his/her position under the circumstances covered by the rule, for the good of the City and the employee group involved, and to establish procedures to be followed in connection with administering such rules.

(h) To provide procedures for recruiting, evaluation and hiring of personnel for the classified service, on the basis of objective considerations such as, for illustration only, prior experience, aptitude, education and physical fitness for the position involved, and of general character and integrity, and to give those hired appropriate orientation to the duties and responsibilities of the position undertaken.

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2. Editor's Note: The ordinance from which this article derives became effective 12-11-1968.

(i) To determine the compensation, types of compensation supplements, the extent of each, the services, privileges and benefits, and the extent of each which shall be applicable to a position other than full-time.

(j) To conduct a program of personnel administration which shall include: the evaluation of an employee and his/her work performance (during his/her probationary period and thereafter); work-related training and advancement; and procedures for demotion, transfer, layoff or separation of an employee.

(k) To provide a procedure for consideration and appeal to a reasonable number of successively higher levels of authority of employee questions, problems, complaints and requests as they relate to wages, hours and working conditions of the classified employees.

(l) To establish and maintain such personnel forms and records as may be required or advisable in connection with the foregoing.

Sec. 2-10. Administration of personnel policies, rules, procedures, etc. [Ord. No. 557; 11-19-2014 by Ord. No. 1642]

The personnel policies established in this article shall be carried out in accordance with an employee handbook, rules, regulations and procedures adopted by resolution of the City Council. The administration of such employee handbook, rules, regulations and procedures shall be the responsibility of those charged with the management, supervision and control of the appropriate unit of government under the applicable provision of the City Charter. To the extent that the City shall adopt an employee handbook for City employees, the employee handbook shall apply and prevail in the event of a conflict or interpretation of this article.

Sec. 2-11. Personnel officer. [Ord. No. 557; 11-19-2014 by Ord. No. 1642]

There shall continue to be a personnel officer of the City, who shall be appointed by the City Manager with consent of City Council and who shall hold his/her office until removed by the City Manager with approval of the Council or until his/her successor is appointed and has qualified. The personnel officer shall be chosen on the basis of his/her executive and administrative qualifications with special reference to his/her actual experience in, or his/her training or aptitude for, personnel administration. The personnel officer may have responsibilities in City administration apart from those as personnel officer. It shall be the responsibility of the personnel officer to prepare and submit for consideration of the City Council the employee handbook, rules, regulations and procedures referred to in Section 2-10; to seek concurrence of the boards, City officers and employees or employee groups prior to action by Council; and to carry out publication and distribution of such actions following Council's approval; and to assist and advise the various boards and City officers on methods of the administration thereof.

Sec. 2-12. Personnel managers/officers. [Ord. No. 557; 11-19-2014 by Ord. No. 1642]

There may be a personnel manager/officer for one or more units of City government appointed by the manager of the unit of government involved with the approval of the board of such unit whose duties and responsibilities would encompass the application of City-wide

personnel policies, practices and procedures to that function, the notification of the personnel officer of the City under Section 2-11 of personnel policies, practices and procedures of less than City-wide applicability but which he/she deems advisable for application to the unit he/she serves, and assisting the personnel officer as called upon by him/her to do so. Such a personnel manager may have other duties and responsibilities within the function which he/she serves in that capacity.

Sec. 2-13. Publication of personnel policies, practices and procedures. [Ord. No. 557; 11-19-2014 by Ord. No. 1642]

The personnel policies, practices and procedures applicable throughout the classified service of the City shall be public. Information relating thereto shall be distributed to each affected employee who is in the classified service.

Sec. 2-14. Discrimination prohibited. [Ord. No. 557; 11-19-2014 by Ord. No. 1642]

Adoption, implementation and administration of the policies set forth in this article shall be carried out without regard to race, color, sex, political or religious application of the employees involved.

Sec. 2-15. Use of consultants, counsel and other advisory personnel. [Ord. No. 557; 11-19-2014 by Ord. No. 1642]

Upon approval thereof by the City Council, on its motion or upon recommendation of the City Manager, personnel officer or heads of the various units of government, the City Council may engage the services of consultants, counsel or other advisory assistance in the establishment, implementation or revision of the policies set forth in this article.

ARTICLE III
Planning Commission

Sec. 2-16. Planning Commission continued. [Code 1955, § 1-7.1; Ord. No. 1522, 11-5-2008]

The City Planning Commission, having been established under and by virtue of Act No. 285 of the Public Acts of 1931 and Act No. 163 of the Public Acts of 1943, is hereby continued as provided in Act 33 of the Public Acts of 2008.

Sec. 2-17. Composition. [Code 1955, § 1-7.2; Ord. No. 1032, 12-4-1991; Ord. No. 1522, 11-5-2008]

(a) The City Planning Commission shall consist of the Mayor, one of the administrative officials of the City selected by the Mayor, one member of the Council selected by the Council, as members ex officio, and six persons appointed by the Mayor, subject to approval by a majority vote of members of the City Council. For purposes of this section, the term "administrative official" shall be defined as any department head of

the City or Board of Public Works established by charter, ordinance, or action of the City Council or Board of Public Works. The Council shall adopt biennially, prior to the expiration of the term of the administrative official, a list of eligible administrative officials from which an appointment shall be made by the Mayor.

(b) Members of the City Planning Commission shall be representative of important segments of the community, representative of the entire geography of the community to the extent practicable, and shall be qualified electors in the City, except that one member may be an individual who is not a qualified elector in the City.

Sec. 2-18. Terms of members; powers, duties, removal and duties as to public places. [Code 1955, § 1-7.3; Ord. No. 1522, 11-5-2008]

(a) The terms of office, powers and duties of the Planning Commission shall be as prescribed by Act 33 of the Public Acts of 2008 and any amendments thereto. The rules and regulations as provided by such Act and any amendments thereto are hereby adopted and made a part of this Code.

(b) The City Council may remove a member of the Planning Commission for misfeasance, malfeasance, or nonfeasance in office upon written charges and after a public hearing.

(c) A street, square, park, playground, public way, or other open space or public building or other structure shall not be constructed or authorized for construction in an area covered by a municipal master plan unless the location, character, and extent of the street, public way, open space, structure, or utility have been submitted to the Planning Commission by the City Council and has been approved by the Planning Commission. The Planning Commission shall submit its reasons for approval or disapproval to the City Council. If the Planning Commission disapproves, the City Council may overrule the Planning Commission by a vote of not less than 2/3 of its entire membership. If the Planning Commission fails to act within 35 days after submission of the proposal to the Planning Commission, the project shall be considered to be approved by the Planning Commission.

(d) If the opening, widening, or extension of a street, or the acquisition or enlargement of any square, park, playground, or other open space has been approved by the City Planning Commission and authorized by the legislative body as provided under Subsection (c) of this section, the City Council shall not rescind its authorization unless the matter has been resubmitted to the Planning Commission and the rescission has been approved by the Planning Commission after holding a public hearing. The Planning Commission shall submit its reasons for approval or disapproval of the rescission to the City Council. If the Planning Commission disapproves the rescission, the City Council may overrule the Planning Commission by a vote of not less than 2/3 of its entire membership. If the Planning Commission fails to act within 63 days after submission of the proposed rescission to the Planning Commission, the proposed rescission shall be considered to be approved by the Planning Commission.

(e) The City Planning Commission shall be exempt from preparing a capital improvements program of public structures and improvements. Preparation of the capital improvements program of public structures and improvements is delegated to the City

Manager to prepare and present to City Council for approval as authorized and described in Section 65(1) of Act 33 of the Public Acts of 2008.

ARTICLE IV
Human Relations Commission

Sec. 2-19. Declaration of public policy. [Ord. No. 515; Ord. No. 692]

It is hereby declared to be the public policy of the City that all persons subject to its jurisdiction shall enjoy equal freedom and the opportunity to peaceably pursue their just aspirations and that practices or conditions based upon or resulting from considerations of race, creed, educational association, color, sex, handicap, age, marital status, national origin or association which result in hindrance or restrictions upon the enjoyment or exercise of that freedom or those aspirations are harmful to the common good and contrary to the public policy of the City.

Sec. 2-20. Creation; composition; appointment, terms, etc., of members; filling vacancies. [Ord. No. 515; Ord. No. 692; Ord. No. 726]

There is hereby created a Human Relations Commission for the City, to be composed of nine members to be appointed by the Mayor with the advice and approval of the Council. Three members of such Commission shall be appointed in June of each year and shall serve for terms of three years, each commencing on the first day of July following appointment. Initial appointments hereunder shall be for partial terms appropriate to initiate the system of staggered terms outlined above; provided, that such initial appointments hereunder shall be made in such a manner so as to permit all of the present members of the Commission to complete the terms of their present appointment. Each vacancy among the appointed members of the Human Relations Commission shall be filled in the manner provided for making original appointments and shall be for the balance of the term vacated. Membership shall be broadly representative of the City. The Mayor may, with the advice and approval of the Council, appoint additional officers of the City as nonvoting, ex officio members of such Commission.

Sec. 2-21. Duties and functions. [Ord. No. 515; Ord. No. 692]

The Human Relations Commission shall:

(a) Promote amicable relations and mutual respect between and among the racial, cultural, religious and other groups within the greater City community, and discourage discrimination practices toward or within any such groups.

(b) Make investigations and studies and conduct research to gather statistics or data which will aid in substantiating need for programs promoting meaningful social change in accordance with public policy, as declared in Section 2-19.

(c) Cooperate with and aid in the organization of activities of other public and private organizations in efforts to improve relationships and conditions among the citizens of the greater City area.

(d) Assemble, analyze and disseminate factual data, information and materials of educational value relating to group relations.

(e) Advise and consult with the City Council and other public or quasi-public bodies on matters within its scope of activity.

(f) Encourage, receive, investigate, evaluate and conciliate complaints, from any person or group, of discrimination contrary to the public policy as defined in Section 2-19 and make known to such person or group the procedures which may be used to complain of such discrimination.

(g) Promote equal opportunity, counter results of past discrimination, initiate action necessary to effectuate the public policy as stated in Section 2-19 and concern itself with the cultural, educational and other matters contributing to a harmonious society.

All legislative and policy-making functions in the field of human relations heretofore vested in the Council or in other public bodies shall remain the prerogative of each such public body.

Sec. 2-22. Rules. [Ord. No. 515]

The Human Relations Commission shall adopt rules of organization and procedure appropriate to the performance of its duties.

Sec. 2-23. Meeting place and secretarial services. [Ord. No. 515]

The City Manager shall provide a meeting place and secretarial services for the Human Relations Commission.

Sec. 2-24. Budget. [Ord. No. 515]

The Human Relations Commission shall annually prepare and submit to the City Manager an estimate of the expenditures of such Commission for the next fiscal year, as provided in Chapter 9 of the Charter of the City.

ARTICLE V

(Reserved)

Sec. 2-25. and Sec. 2-26. (Reserved)[3]

3. Editor's Note: Former Sections 2-25, Created, and 2-26, Composition; appointment, qualifications and terms of members; filling vacancies, were repealed 1-17-2018 by Ord. No. 1704.

ARTICLE VI
(Reserved)

Sec. 2-27. and Sec. 2-28. (Reserved)[4]

ARTICLE VII
Odd-Year Primary and General Elections

Sec. 2-29. Short title; purpose of article. [Ord. No. 590]

This article shall be known as the "Odd-Year Election Ordinance." Its purpose is to adopt the provisions of Public Act No. 239 of the Michigan Public Acts of 1970,[5] relative to the election and terms of office of elected City officers.

Sec. 2-30. General election. [Ord. No. 590]

A regular nonpartisan City election, to be known as the "Odd-Year General Election," shall be held on the Tuesday following the first Monday in November of each odd-numbered year, beginning in 1973.

Sec. 2-31. Primary election. [Ord. No. 590]

A regular nonpartisan City primary election, to be known as the "Odd-Year Primary Election," shall be held on the Tuesday following the first Monday in August of each odd-numbered year, beginning in 1973.

Sec. 2-32. Nomination of candidates for general election. [Ord. No. 590]

All City officers required to be elected at the odd-year general election shall be nominated at the odd-year primary election preceding the general election.

Sec. 2-33. Election and term of office of Mayor and Councilmen. [Ord. No. 590]

(a) The Mayor shall be elected for a term of two years at each odd-year general election beginning in 1973.

(b) Councilmen shall be elected for a term of four years at each odd-year general election as follows:

(1) Beginning in 1973, one Councilman-at-large and Councilmen representing wards 1, 3 and 5 shall be elected.

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4. Editor's Note: Former Sections 2-27, Created, and 2-28, Composition; appointment, qualifications and terms of members; filling vacancies, were repealed 1-17-2018 by Ord. No. 1704.

5. Editor's Note: See MCLA § 168.644e et seq.

(2) Beginning in 1975, one Councilman-at-large and Councilmen representing wards 2, 4 and 6 shall be elected.

Sec. 2-34. Nominating petitions. [Ord. No. 590; amended 1-17-2018 by Ord. No. 1704]

Notwithstanding § 11.9 of the Charter, nominating petitions for City officers to be elected the odd-year general elections shall be filed not later than the deadline established by resolution adopted by the City Council pursuant to MCLA § 117.3b and MCLA § 168.1, et seq.

Sec. 2-35. Time for taking office. [Ord. No. 590]

All City officers elected at the odd-year general election shall take office on the Monday next following the date of the election at which they were elected.

Sec. 2-35.1. Alteration of ward and precinct boundaries—annexation. [Ord. No. 1272, 2-2-2000]

(1) Pursuant to the orders of the State Boundary Commission for the State of Michigan dated November 29, 1999, effective December 30, 1999, in Docket Numbers 98-AP-9 and 98-AP-12, the following described lands are hereby included in the 5th Ward of the City:

Parcel A (98-AP-9):

Part of Sections 9, 10, 15, 16, 17, 18, T4N, R15W, Fillmore Township, Allegan County, Michigan, being described as: Beginning at the east 1/4 corner of said Section 15; thence south 00° 26' 36" east 479.54 feet along the east line of said Section 15; thence north 88° 18' 44" west 834.73 feet; thence north 35° 35' 06" west 701.37 feet along the center line of M-40; thence 631.48 feet along the center line of M-40 and along the arc of a curve to the right with a radius of 34,377.48 feet through a central angle of 01° 03' 09" the long chord of which bears north 35° 03' 31" west 631.47 feet; thence north 88° 19' 14" west 1,059.95 feet; thence south 00° 39' 46" east 585.25 feet along the north and south 1/4 line of said Section 15; thence north 88° 18' 44" west 2,648.32 feet along the east and west 1/4 line of said Section 15 to the west 1/4 corner of said Section 15; thence north 89° 31' 11 west 1,328.51 feet along the east and west 1/4 line of said Section 16; thence north 00° 45' 48" west 1,727.79 feet along the west line of the east 1/2 of the northeast 1/4 of said Section 16; thence 1,373.89 feet along the south line of Interstate 196 and along the arc of a curve to the right with a radius of 3,922.72 feet through a central angle of 20° 04' 02" the long chord of which bears south 75° 01' 02" west 1,366.88 feet; thence south 00° 37' 45" east 35.58 feet along the north and south 1/4 line of said Section 16; thence north 89° 39' 58" west 1,209.33 feet along the south line of Interstate I-196; thence south 05° 55' 59" east 1,332.62 feet along the west line of the CSX Railroad right-of-way; thence north 89° 31' 11" west 1,570.17 feet along the east and west 1/4 line of said Section 16 of the west 1/4 corner of said Section 16; thence south 89° 54' 53" west 578.77 feet along the east and west 1/4 line of said Section 17; thence north 0° 08' 47" west 754.64 feet along the east line of the west 36 acres of the south 46 acres of the northeast 1/4 of said Section 17; thence south 89° 54' 53" west 300 feet along the north line of the south 46 acres of the

northeast 1/4 of said Section 17; thence south 00° 08' 47" east 754.64 feet along the west line of the east 300 feet of the west 36 acres of the south 46 acres of the northeast 1/4 of said Section 17; thence south 89° 54' 53" west 1778.03 feet along the east and west 1/4 line of said Section 17 to the center of said Section 17; thence south 89° 54' 53" west 2657.15 feet along the east and west 1/4 line of said Section 17 to the west 1/4 corner of said Section 17; thence north 89° 19' 47" west 1,325.75 feet along the east and west 1/4 line of said Section 18; thence north 00° 05' 36" west 1,261.43 feet along the west line of the southeast 1/4 of the northeast 1/4 of said Section 18; thence 982.91 feet along the south line of Interstate 196 and along the arc of a curve to the right with a radius of 11,356.16 feet through a central angle of 04° 57' 33" the long chord of which bears north 87° 25' 35" east 982.60 feet; thence north 89° 54' 21" east 343.56 feet along the south line of Interstate 196; thence north 00° 06' 36" west 300 feet along the west line of Section 17; thence north 89° 54' 21" east 5,306.29 feet along the north line of Interstate 196; thence north 00° 22' 51" west 1,019.04 feet along the east line of said Section 17 to the northeast corner of said Section 17; thence south 89° 48' 47" east 1,819.67 feet along the north line of said Section 16; thence north 00° 43' 28" west 99.00 feet; thence south 89° 48' 47" east 165.00 feet; thence north 00° 43' 28" west 759.00 feet; thence south 89° 48' 47" east 660 feet; thence south 00° 43' 28" east 858 feet along the north and south 1/4 line of said Section 9 to the south 1/4 corner of said Section 9; thence south 89° 52' 03" east 1,983.36 feet along the south line of said Section 9; thence along the northerly right-of-way line of Interstate 196 the following nine courses: thence north 00° 07' 57" east 33.00 feet; thence north 72° 51' 34" east 218.90 feet; thence north 49° 36' 07" east 479.12 feet; thence north 37° 26' 15" east 415.64 feet; thence north 22° 52' 11" east 415.64 feet; thence north 10° 42' 19" east 903.25 feet; thence north 54° 44' 52" east 119.54 feet; thence 289.05 feet along the arc of a curve to the right with a radius of 68,834.90 feet through a central angle of 00° 14' 26" the long chord of which bears north 35° 23' 28" west 289.05 feet; thence north 35° 16' 14" west 66.64 feet; thence north 54° 43' 46" east 160.00 feet; thence south 35° 16' 14" east 66.64 feet; thence 782.14 feet along the arc of a curve to the left with a radius of 68,674.90 feet through a central angle of 00° 39' 09" the long chord of which bears south 35° 35' 49" east 782.13 feet; thence south 35° 55' 24" east 1,470.33 feet; thence along the southerly right-of-way line of Interstate 196 the following seven courses: thence north 09° 04' 29" east 169.71 feet; thence north 54° 04' 22" east 185.81 feet; thence north 14° 25' 06" east 890.45 feet; thence north 29° 46' 28" east 426.72 feet; thence north 49° 36' 07" east 376.13 feet; thence north 40° 10' 23" east 103.77 feet; thence north 49° 36' 07" east 204.88 feet; thence south 88° 08' 31" east 969.14 feet along the east and west 1/4 line of Section 10; thence south 00° 34' 51" east 1,312.40 feet along the east line of the northwest 1/4 of the southeast 1/4 of said Section 10; thence south 88° 13' 43" east 895.29 feet along north line of the southeast 1/4 of the southeast 1/4 of said Section 10; thence south 00° 38' 01" east 200.18 feet; thence south 88° 13' 43" east 435.60 feet; thence south 00° 38' 01" east 1,110.27 feet along the east line of said Section 10 to the southeast corner of said Section 10; thence south 00° 28' 41" east 2,677.94 feet along the east line of said Section 15 to the east 1/4 corner of said Section 15 and the point of ending.

Parcel B (98-AP-12):

Part of the west 1/4 of the northeast 1/4 and part of the northwest 1/4 of Section 10, T4N, R15W, Fillmore Township, Allegan County, Michigan, described as follows:

Beginning at the north 1/4 corner of said section; thence south 88° 05' 14" east 725.01 feet along the north section line; thence south 00° 31' 41" east 1,270.64 feet parallel with the north-south 1/4 line; thence north 88° 05' 14" west 480.01 feet; thence south 00° 31' 41" east 1,109.24 feet along the east line of the west 15.00 acres of the northeast 1/4 of said section; thence south 49° 36' 09" west 373.37 feet along the northerly right-of-way line of Highway 1-196 (a limited access highway); thence north 34° 20' 02" west 3,239.15 feet along the westerly right-of-way line of CSX Railroad (a 100.00 foot wide right-of-way); thence south 88° 36' 26" east 1,545.02 feet along the north section line; thence south 00° 31' 41" east 250 feet; thence south 88° 36' 26" east 300 feet; thence north 00° 31' 41" west 250 feet along the north-south 1/4 line to the place of beginning.

(2) The above-described property, located contiguous to Precincts 5.1 and 5.3, shall be included in the respective precincts to determine polling places in such wards. A map of the City of Holland depicting wards, precincts, and polling places for the above-described property is attached hereto, and is incorporated by reference, and a copy is on file with the Office of the City Clerk, City Hall, Holland, Michigan.

ARTICLE VIII
Compensation Commission

Sec. 2-36. Purpose and intent of article. [Ord. No. 608, § 1]

Pursuant to the provisions of Section 5 of Act No. 279 of Public Acts of 1909, as amended by Act No. 41 of Public Acts of 1969, being Section 117.5 of the Compiled Laws of 1948, as further amended by Act No. 8 of Public Acts of 1972, adding Section 5c, the City hereby creates a Compensation Commission.[6] It is the purpose and intent of this article to provide for the creation and workings of a Compensation Commission as stated in Subsections (a), (b) and (c) of Section 5c enacted by Act No. 8 of Public Acts of 1972, and all questions of intent and interpretation of this article or its validity shall be resolved to the extent possible by reference to such section.

Sec. 2-37. Creation. [Ord. No. 608, § 2]

A Compensation Commission is hereby created which, subject to the provisions of Sections 2-38 through 2-40, shall determine and fix the salaries of all elected officials of the City.

Sec. 2-38. Composition; appointment and terms of members; filling vacancies; persons not eligible for membership. [Ord. No. 608, § 3]

(a) The Compensation Commission shall consist of seven members, all of whom shall be registered electors of the City. Within 30 days after November 22, 1972, the Mayor shall appoint the initial seven members of the Compensation Commission, one member to serve for a term of one year, one member to serve for a term of two years, one member to serve for a term of three years, one member to serve for a term of four

6. Editor's Note: See MCLA § 117.5c.

years, one member to serve for a term of five years, one member to serve for a term of six years, and one member to serve for a term of seven years. As each member's term expires, another member shall be appointed by the Mayor to serve for a term of seven years. All members appointed after the initial appointment shall be appointed prior to October 1 of the year of the appointment. Vacancies shall be filled by an appointment by the Mayor for a term equal to the unexpired term of the member leaving the Compensation Commission.

(b) All appointments made by the Mayor, whether initial appointments, appointments to fill expired terms or appointments to fill unexpired terms, shall be subject to the confirmation by a majority of the members elected and serving on the City Council.

(c) No member or employee of the legislative, judicial or executive branch of any level of any government or members of the immediate family of such member or employee shall be eligible to be a member of the compensation committee.

Sec. 2-39. Determination of salaries. [Ord. No. 608, § 4]

(a) The Compensation Commission shall determine the salaries of the elected officials of the City, and such determination shall be effective to establish such salaries unless the City Council, by a resolution adopted by two-thirds of the members elected to and serving on the City Council, shall reject the determination. The determinations of the Compensation Commission shall be filed with the City Clerk's office and shall become effective on the thirtieth day following such filing unless rejected by the City Council, in which case the then existing salary shall remain the salary of the elected official.

(b) Any expense allowance or reimbursement paid to any elected official in addition to salary shall be for expenses actually incurred in the course of City business and accounted for to the City.

Sec. 2-40. Meetings; times of determinations; quorum; session days; compensation and expenses. [Ord. No. 608, § 5]

(a) The Compensation Commission shall meet for not more than 15 session days in 1972 and every odd-numbered year thereafter, and all determinations shall be made within 45 days following the first session day of any calendar year. A majority of the members of the Compensation Commission shall constitute a quorum for conducting the business of the Compensation Commission, and the Compensation Commission shall take no action or make any determination of salaries without the concurrence of a majority of the members appointed and serving on the Compensation Commission.

(b) The term "session days" as used herein shall mean any calendar day on which the Compensation Commission meets and a quorum is present.

(c) The members of the Compensation Commission shall receive no compensation but shall be reimbursed by the City for their actual expenses incurred in the performance of their duties.

ARTICLE IX

Purchasing Department

Sec. 2-41. Created. [Ord. No. 628; Ord. No. 779; Ord. No. 1214, 7-1-1998]

Pursuant to powers granted by Section 4.16 of the Charter of the City, there is hereby created a department of purchases of the general City administration, for the control of purchasing activities and making contracts. Purchases by the Board of Public Works shall be made as prescribed by its governing board within Charter limitations. The Board shall establish and periodically review guidelines and policies to govern such purchases.

Sec. 2-42. Organization; Purchasing Coordinator generally. [Ord. No. 628; Ord. No. 779; Ord. No. 1214, 7-1-1998; 4-17-2019 by Ord. No. 1766]

(a) The Finance Director shall be the Purchasing Coordinator. The Purchasing Coordinator shall receive such salary for his or her duties as shall be determined by the annual City budget. The activities of the Purchasing Coordinator shall be under the supervision of the City Manager, subject to the provisions of this article.

(b) Nothing herein shall preclude the City Manager from assigning the purchasing function to an existing department of the general City administration or designating someone other than the Finance Director as the Purchasing Coordinator. When such assignment is made, the reference herein to a department shall be deemed to refer to the assignment of that function to an existing department. The Purchasing Coordinator shall have such experience and capabilities as shall be required by the City Manager. The Purchasing Coordinator may appoint a Deputy Purchasing Coordinator subject to approval by the City Manager. The Deputy Purchasing Coordinator shall possess all the powers and authorities of the Purchasing Coordinator, except as such may be from time to time limited by his or her superior or by the City Manager.

Sec. 2-43. Authority of Purchasing Coordinator; definitions. [Ord. No. 628; Ord. No. 779; Ord. No. 1214, 7-1-1998; 4-17-2019 by Ord. No. 1766]

(a) For purposes of this Article IX of Chapter 2, the following terms shall be construed to have the following meanings:

CONTRACTUAL SERVICES — Construed to mean, but not limited to, standard software licenses (other than software that is custom designed for the City), utility services, and the rental, repair or maintenance of equipment, machinery, automotive equipment and other City-owned personal or real property.

FUNDING AGREEMENT — Contracts with local nonprofit organizations that provide services to or for the City.

SUPPLIES, MATERIALS and EQUIPMENT — Any and all goods which shall be furnished to or used by any department.

(b) Subject to Subsections (d), (e) and (f) of this Section 2-43, the Purchasing Coordinator shall have the power to purchase all supplies, materials, equipment and contractual services needed by the general departments of the City, exclusive of the Board of

Public Works. Purchases under this Section 2-43 do not require specific City Council approval.

(c) Purchases under this Section 2-43 shall be by purchase order or contract (See Section 2-49.), made in consultation with the appropriate department head and shall be subject to the quotation or competitive bidding requirements set forth in Sections 2-46 through 2-48.1, if applicable. All contracts authorized by this Section 2-43 shall be signed by the City Manager, subject to approval as to form by the City Attorney.

(d) The Purchasing Coordinator may purchase expendable supplies, materials and equipment, and contractual services that are not commonly defined as capital outlay items or fixed assets, if such purchases do not exceed $20,000 and are a part of the operating budget approved by the City Council.

(e) The Purchasing Coordinator may purchase supplies, materials, equipment or contractual services that are commonly defined as capital outlay items or fixed assets if such purchases do not exceed $20,000 and were approved as part of the budget approved by the City Council.

(f) The Purchasing Coordinator may purchase professional services or minor construction services without prior City Council approval if such services do not exceed $50,000 and were approved as part of the budget approved by City Council.

(g) The City Manager may execute funding agreements for recipients who provide services to or for the City if such agreements do not exceed $20,000 and are a part of the operating budget approved by the City Council.

Sec. 2-44. Duties of the Purchasing Coordinator. [Ord. No. 628; Ord. No. 779; Ord. No. 1214, 7-1-1998]

Except as otherwise provided in this article, the Purchasing Coordinator shall have the following general duties and responsibilities, in addition to those specifically promulgated in the rules and regulations by the City Manager:

(a) Procure or supervise procurement of all supplies, materials, equipment and contractual services needed by the general City departments.

(b) Exercise general supervision and control over all inventories of supplies belonging to the general City departments, including but not limited to the authority to establish and supervise storerooms and warehouses for materials which can be purchased and stored for future use by one or more units of the City government.

(c) Supervise the trade, sale at public auction or otherwise disposition of surplus materials, supplies and equipment belonging to the general City departments in accordance with the provisions of this article, the Charter and statutes applicable to the disposal of surplus or abandoned materials, supplies and equipment.

Sec. 2-45. Purchases by department heads. [Ord. No. 628; Ord. No. 779; Ord. No. 1214, 7-1-1998; 4-17-2019 by Ord. No. 1766]

A department head, consistent with the terms of this article, may purchase materials, supplies, equipment or contractual services for his or her department without prior approval of the Purchasing Coordinator or the City Council through a confirming purchase order if the purchases do not exceed $5,000 and were approved as part of the budget approved by the City Council. Subject to the provisions of this article, the City Manager may prescribe rules and regulations authorizing a department head to make purchases of supplies, materials, equipment or services upon prior verbal authorization by the City Manager or the Purchasing Coordinator with the confirming purchase order to be issued subsequent thereto.

Sec. 2-46. Quotations and bids—when required. [Ord. No. 628; Ord. No. 779; Ord. No. 1214, 7-1-1998; 4-17-2019 by Ord. No. 1766]

(a) The Purchasing Coordinator shall obtain a minimum of two quotations prior to purchasing supplies, materials, equipment or contractual services if the estimated cost exceeds $1,500 but is under $5,000. Purchases up to $1,500 may be made without quotations.

(b) The Purchasing Coordinator shall solicit written competitive bids for purchases of supplies, materials, equipment or contractual services where the estimated cost exceeds $5,000 but is under $20,000.

(c) The Purchasing Coordinator shall solicit sealed bids for purchases of supplies, materials, equipment or contractual services where the estimated cost exceeds $20,000.

(d) The Purchasing Coordinator shall solicit written competitive bids for minor construction services where the estimated cost exceeds $5,000 but is under $50,000.

Sec. 2-47. Procedures for quotations and bids. [Ord. No. 628; Ord. No. 779; Ord. No. 1214, 7-1-1998; Ord. No. 1488, 1-9-2008]

(a) When the Purchasing Coordinator deems it advisable or this article requires quotations or sealed bids, he or she shall confer with the department head as to the specifications required for the purchase, and again after the quotations have been received, before issuing a purchase order or submitting them to the City Manager for approval by the City Council, if required.

(b) When required, the Purchasing Coordinator shall solicit bids or quotations from responsible prospective suppliers by sending them a copy of the request to bid. In addition, requests for bids or quotations shall be sent to such prospective bidders as shall represent a sufficient number of qualified bidders. The Purchasing Coordinator or the City Manager shall determine the extent of advertising or solicitation of sealed bids which may include advertisements in an appropriate newspaper or trade publication prior to the deadline for receiving bids.

(c) Competitive bidding shall not be required with respect to contracts for professional services, insurance, banking, and financial services. For purposes of this section, professional services shall mean that the contract for services requires a high degree of

individual skill, training, and expertise where the specialized ability or fitness of the individual or company performing such service is required by the City.

(1) Professional services, including those services specified in Subsection (c), shall be obtained by competitive negotiation to determine that a reasonable price for such services has been obtained. No contract for the services of legal counsel may be awarded without prior approval of the City Attorney and City Council.

(2) In any other case where competitive bidding or competitive negotiation is not required by law and either clearly is not practical or no advantage would result to the City by competitive bidding or competitive negotiation, the City Council, upon written recommendation of the City Manager, may authorize the execution of a contract without competitive bidding or competitive negotiation. When a contract is let without competitive bidding or competitive negotiation, the proposed contract shall be approved by the City Attorney as to form and content, unless prepared by him or her by direction of the City Council, and submitted to the City Council for approval.

(d) All sealed bids shall be submitted to the Purchasing Coordinator and, when deemed necessary by the Purchasing Coordinator or upon direction of the City Manager, shall be accompanied by surety in the form of check, cash or bond in such amount as shall have been prescribed in the notice and/or invitation to bid. The bids shall be opened in public at the time and place stated in the notice and/or invitation to bid by the Purchasing Coordinator and, if applicable, in the presence of the City Manager or the department head of the department for which the purchase is to be made. Sealed bids received by the purchase coordinator after the established deadline shall be returned unopened to the bidder submitting the same.

(e) Purchases of items that are unique, noncompetitive, or available only from a sole source may be exempt only from the requirements of Section 2-46 with regard to quotations and bids; however, every effort should be made to obtain alternate sources of supply for such items. Items that are unique, noncompetitive or available only from a sole source shall be designated as such only by the City Manager. Such purchases shall still require the appropriate purchase order and/or contract, and necessary approvals.

(f) Pursuant to the provisions of Section 4.16 of the City Charter, the City shall have the right to accept or reject any or all bids. The City shall also have the right to waive any informalities/irregularities in the bids, as well as the right to split the award or a bid between two or more bidders. Purchases shall be made from the source from which the lowest responsible bid is received, as defined in Section 2-48.

Sec. 2-48. Award of contracts and purchases. [Ord. No. 628; Ord. No. 779; Ord. No. 1214, 7-1-1998]

Contracts and purchases shall be awarded to the lowest responsible bidder. In determining the lowest responsible bidder, in addition to the price, the department head, Purchasing Coordinator or the City Council shall consider:

(a) The bidder's ability, capacity and skill to perform the contract or provide the supplies, material, equipment or services required promptly, or within the specified time, without delay or interference.

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

(c) The bidder's previous and existing compliance with contracts, purchase orders or services.

(d) The bidder's previous and existing compliance with laws and ordinances relating to contracts, purchase orders or services.

(e) The sufficiency of the financial resources of the bidder to perform the contract or provide the supplies, materials, equipment or services.

(f) The availability and adaptability of the supplies, materials, equipment or contractual services to the particular use required.

(g) The bidder's ability to provide future maintenance and service subject to the contract or purchase order.

(h) The number of scope of the conditions attached to the bid by the bidder.

(i) The brand, make or type of product being proposed by the bidder, and its compatibility with other similar materials or equipment currently owned and operated by the City.

If all bids received are for the same total amount or unit price, quality and service being equal, the contract shall be awarded to the local bidder, in any. In all other cases of tied bids, the contract shall be awarded to one of the tied bidders by drawing lots in public.

Sec. 2-48.1. Preference for local bidders/Holland-based businesses. [Ord. No. 1565, 6-1-2011]

(a) Purpose. The City finds that its purchasing practices should encourage local vendors to provide goods and/or services to the City, resulting in increased economic activity through more local jobs, tax revenues, and expenditures, and to entice businesses to relocate to the City.

(b) Definition. "Holland-based business" means a physical and economic relationship to Holland determined by a verifiable business address (not a P.O. box) within the corporate boundaries of the City, activities carried out in Holland substantial enough to consider it a Holland-based business, and the payment of City property taxes for not less than one year immediately prior to the date of the bid submittal. A Holland-based business shall also include a local vendor which is located outside the geographic

boundaries of the City of Holland but within the geographic boundaries of the Macatawa Area Coordinating Council and the governmental unit in which such local vendor is located has an ordinance or a purchasing policy which grants a similar local vendor preference to Holland-based businesses as defined in the first sentence of this paragraph.

(c) Exceptions.

(1) Purchases resulting from exigent emergency conditions where any delay in completion or preference would jeopardize public health, safety or welfare of the citizens of the City, or where, in the judgment of the manager or his or her designee, the operational effectiveness of a City department or division or a significant City function would be seriously threatened if a purchase was not made expeditiously.

(2) Purchases from any sole source supplier for supplies, materials, or other equipment.

(3) Purchases made through the state's extended purchasing program, or other cooperative purchasing contractual agreements utilized or initiated by the purchasing division.

(4) The procurement of goods and services utilizing the request for proposal (RFP) or best value quote processes where the award is based on criteria other than lowest cost, unless the original solicitation contains the criteria used to affect Holland-based preference.

(5) Bid solicitations that utilize federal funding that prohibit awards based on local preference criteria.

(6) Bid solicitations that utilize "life cycle cost" as the basis of award in place of submitted bid price.

(d) Preference. When sealed bids are received under Section 2-46, the following shall apply:

(1) The person or business submitting the lowest responsive, responsible bid, according to the requirements of the bidding documents, shall be deemed the lowest bidder. If the lowest bidder is not a Holland-based business, any Holland-based business with a bid within 2% of the lowest bid shall be deemed the lowest bidder if it agrees to reduce its bid to match the bid of the lowest bidder. A lowered bid by a Holland-based business which is premised upon, in whole or in part, changes to or variances to the bid specifications, contract requirements, or scope of work shall be considered nonresponsible and will not be considered.

(2) If such a Holland-based business refuses to reduce its bid to match the lowest bid, then the next lowest responsive and responsible Holland-based business with a bid within 2% of the lowest bid shall be deemed the lowest bidder, if it agrees to reduce its bid to match the bid of the lowest bidder.

(3) If no responsive and responsible Holland-based business within 2% of the lowest bid agrees to reduce its bid, then the contract shall be awarded to the person or business with the lowest, most responsive and responsible bid.

(4) No contract awarded pursuant to this section shall be sublet in any matter that permits 50% or more of the dollar value of the contract to be performed by a subcontractor or subcontractors who do not meet the definition of "Holland-based."

(e) Additional requirements. In no event shall a Holland-based business be awarded a contract if the business is not current on real and personal property taxes owed to the City.

(f) Rights of City. This section shall not waive or constrain, in any manner, the right and prerogative of the City to reject any and all bids or proposals, to reject a bid not accompanied by required bid security or other documentation or data required by the bidding documents, or to reject a bid which is in any way incomplete, irregular, not responsive or not a lowest responsible bidder as defined by Section 2-48 of the ordinance code.

(g) Rules and regulations. The City Manager, in conjunction with the Purchasing Coordinator, may prescribe rules and regulations to implement and carry out the intent and purpose of this section. Such rules and regulations shall be consistent with the City charter and all applicable City ordinances.

Sec. 2-49. Contracts generally. [Ord. No. 628; Ord. No. 779; Ord. No. 1214, 7-1-1998; 4-17-2019 by Ord. No. 1766]

(a) The City Manager and/or City Attorney shall determine which purchases of materials, supplies, equipment and contractual services shall be by contract. All other purchases of materials, supplies, equipment and contractual services shall be by purchase order. Contracts or purchase orders shall not be required for purchases of less than $1,000.

(b) Except as provided in Section 2-43(d), (e) and (f), all contracts shall be submitted to the City Council and, upon approval by the City Council, shall be signed by the Mayor and City Clerk, subject to approval as to form by the City Attorney.

Sec. 2-50. Involvement of the City Finance Director. [Ord. No. 628; Ord. No. 779; Ord. No. 1214, 7-1-1998]

The City Finance Director shall be notified of all contracts and the amounts thereof, so that the proper accounts may be encumbered.

The City Finance Director shall be notified of each purchase order, giving either the definite amount thereof or an amount estimated as closely as possible by the Purchasing Coordinator, specifying the account to be charged, so that the proper account may be encumbered.

Except in cases of emergency or in accordance with the rules and regulations adopted pursuant to Section 2-45, the Purchasing Coordinator shall not release any order for delivery on a contract or purchase order until the City Finance Director shall have certified that there are sufficient unencumbered funds to the credit of the account indicated on the order to defray the amount of such purchase.

Sec. 2-51. Emergency purchases. [Ord. No. 628; Ord. No. 779; Ord. No. 1214, 7-1-1998]

Notwithstanding any other provision of this article, the Purchasing Coordinator or the City Manager may make or authorize a department head to make emergency purchases when there exists a threat to public health, safety or welfare under emergency conditions as defined in regulations promulgated by the City Manager, provided, that such purchases shall be made as competitively as is practical under the circumstances. A written determination of the basis for the emergency purchase and for the selection of the particular vendor or contractor shall be filed with the Purchasing Coordinator and the City Manager within three days after the purchase is made.

Sec. 2-52. Inspection of delivered goods. [Ord. No. 628; Ord. No. 779; Ord. No. 1214, 7-1-1998]

The department head shall be responsible for the inspection of all deliveries of supplies, materials, equipment and services to determine their conformance with the specifications set forth in the contract or purchase order. The Purchasing Coordinator shall have the authority to require testing of deliveries when necessary to determine their quality and conformance with the specifications. In the performance of such tests, the Purchasing Coordinator may make use of laboratory facilities of any agency of the City government or any outside laboratory with the approval and consent of the City Manager.

Sec. 2-53. Split orders or other deviations. [Ord. No. 628; Ord. No. 779; Ord. No. 1214, 7-1-1998]

The Purchasing Coordinator or any department head shall not split any order for any supplies, materials, equipment or contractual services to avoid the limitations placed upon such purchases by this article, and no department head shall declare a purchase to be an emergency one unless an unforeseeable circumstance or combination of circumstances makes immediate action necessary. Infractions of these regulations shall be deemed to be a violation of this article of the Code of the City.

Sec. 2-54. Combined purchases. [Ord. No. 628; Ord. No. 779; Ord. No. 1214, 7-1-1998]

Nothing herein shall preclude the purchasing department from combining purchases with the Boards of the City or with other units of government, including the state, in order to obtain advantages which might accrue by doing so.

Sec. 2-55. Reports. [Ord. No. 628; Ord. No. 779; Ord. No. 1214, 7-1-1998]

The City Council, through the City Manager, or the City Manager may request reports on purchases from the Purchasing Coordinator and such reports shall be submitted forthwith.

Sec. 2-56. City Manager to prescribe rules and regulations. [Ord. No. 628; Ord. No. 779; Ord. No. 1214, 7-1-1998]

The City Manager, in conjunction with the Purchasing Coordinator, may prescribe rules and regulations to implement and carry out the intent and purpose of this article. All rules and regulations shall be consistent with the City Charter, all City ordinances and any purchasing resolutions adopted by the City Council.

Sec. 2-57. through Sec. 2-59. (Reserved)

ARTICLE X
CATV Advisory Commission

Sec. 2-60. Purpose. [Ord. No. 634]

Public access to CATV and related communication systems and the possibility for the use of CATV facilities for two-way and additional communications make it advisable to have a public commission to advise the City on the impact, utilization, programming and public service aspects of any CATV licensee operating in the City.

Sec. 2-61. Created; composition; appointment and terms of members. [Ord. No. 634; Ord. No. 1147, 7-5-1995; Ord. No. 1433, 12-7-2005]

(a) There is hereby created a CATV Advisory Commission composed of seven members, selected in the following manner:

(1) One member shall be the City Manager or his or her designated representative.

(2) One member shall be the Superintendent of Utilities or his or her designated representative.

(3) One member shall be affiliated with a local educational institution.

(4) Four members shall be from the public at large.

(5) A minimum of five members of the Commission shall be residents of the City of Holland.

(b) With the exception of the City Manager and Superintendent of Utilities or their designates, the members shall be appointed by the Mayor with the advice and approval of the Council, for terms of three years; provided that, of the members initially appointed, two public members shall be appointed to a one-year term, one public member and one educational member shall be appointed to a two-year term, and one public member shall be appointed to a three-year term.

(c) Terms shall commence on the first day of July following appointment. Each vacancy among appointed members shall be filled in the manner of making original appointments and shall be for the balance of the term vacated.

Sec. 2-62. Powers and duties. [Ord. No. 634]

(a) Promote local programming for and by various religious, educational, governmental, ethnic, professional, cultural and other special interest groups.

(b) Advise the City Council on matters which might constitute grounds to terminate a CATV license or attachment agreement.

(c) Advise the City Council on the regulation of rates and charges to subscribers.

(d) Advise the City Council on the service and operational performance of any CATV licensee.

(e) Advise the City Council of new developments and achievements in the CATV and related fields.

(f) In accordance with normal budgeting procedures for the City, and with approval of City Council, direct the expenditures of funds available to the CATV Advisory Commission.

Sec. 2-63. Meetings; rules; Chairperson. [Ord. No. 634]

The Commission shall meet quarterly and at such other times as required or as advisable. The Commission shall adopt such rules and procedures as are appropriate to the performance of its duties. The members shall elect a Chairperson to serve a one-year term.

ARTICLE XI
Airport Expenditures

Sec. 2-64. Referendum required. [Ord. No. 817]

No funds may be expended to acquire, establish, operate or help maintain an airport or similar facility without the approval of a majority of electors voting on such a question at any general or special election.

Sec. 2-65. through Sec. 2-83. (Reserved)

ARTICLE XII
(Reserved)

Sec. 2-84. through Sec. 2-90. (Reserved)[7]

7. **[Editor's Note: Former Sections 2-84, Definitions, 2-85, Residency Requirement, 2-86, Exceptions–Appointive officers/department heads, and 2-87, Failure to comply, were repealed 1-17-2018 by Ord. No. 1704**

ARTICLE XIII

Economic Development Corporation

Sec. 2-91. Creation. [Ord. No. 699]

There is hereby created and authorized the incorporation of the Economic Development Corporation of the City pursuant to and in accordance with Act 338, Public Acts of 1974, as amended.[8]

Sec. 2-92. Approval of application. [Ord. No. 699]

The application dated July 6, 1977, and filed by Robert De Young, Paul vander Leek and David L. Meier, is hereby approved.

Sec. 2-93. Approval and adoption of Articles of Incorporation. [Ord. No. 699]

The Articles of Incorporation for the Economic Development Corporation of the City of Holland are hereby approved and adopted in the following form:

Article I
Name

The name of the economic development corporation is THE ECONOMIC DEVELOPMENT CORPORATION OF THE CITY OF HOLLAND.

Articles of Incorporation
of The Economic Development Corporation of the City of Holland
A Public Corporation

These Articles of Incorporation are for the purpose of forming a public economic development corporation pursuant to the provisions of Act No. 338 of the Public Acts of 1974, as amended, (the "economic development corporations act of 1974").

Article II
Incorporating Municipality

The incorporation of The Economic Development Corporation of the City of Holland is to be accomplished by the approval of the Articles of Incorporation by Ordinance of the City of Holland, Ottawa and Allegan Counties, Michigan.

Article III
Purpose

8. **Editor's Note: See MCLA § 125.1601 et seq.**

The Corporation is organized and incorporated as authorized by and pursuant to the Economic Development Corporations Act of 1974 (Act 338, Public Acts of 1974), as amended. The purpose for which the Corporation is created is to alleviate and prevent conditions of unemployment; to assist and retain local industries and commercial enterprises; to strengthen and revitalize the economy of the City of Holland and of the State of Michigan; to provide means and methods for the encouragement and assistance of industrial and commercial enterprises in locating, purchasing, constructing, reconstructing, modernizing, improving, maintaining, repairing, furnishing, equipping and expanding in the City of Holland; to encourage the location and expansion of commercial enterprises to more conveniently provide needed services and facilities of the commercial enterprises to the City and the residents thereof. To accomplish the foregoing essential public purposes, the corporation, pursuant to Act 338, Public Acts 1974, as amended, may do the following:

a) Construct, acquire by gift or purchase, reconstruct, improve, maintain or repair Projects (as the word "project" is defined in Act 338, Public Acts of 1974, as amended), and acquire the necessary lands for the site therefor;

b) Acquire by gift or purchase the necessary machinery, furnishings, and equipment for a Project;

c) Borrow money and issue its revenue bonds or revenue notes to finance part or all of the cost of the acquisition, purchase, construction, reconstruction or improvement of a project or any part thereof, the cost of the acquisition and improvement of the necessary sites therefor, the acquisition of machinery, furnishings and equipment therefor and the costs necessary or incidental to the borrowing of money and issuing of bonds or notes for such purpose;

d) Enter into leases, lease purchase agreements, or installment sales contracts with any person, firm, corporation or public authority for the use or sale of a Project, or any part thereof;

e) Mortgage the Project, or any part thereof, in favor of any lender of money to the corporation;

f) Sell and convey the Project or any part thereof for a price and at a time as the corporation determines;

g) Lend, grant, transfer or convey funds, as described in Act 338, Public Acts of 1974, as amended, as permitted by law, but subject to applicable restrictions affecting the use of such funds;

h) Assist and participate in the designation of the land area which will be acquired in the implementation of a Project;

i) Prepare, assist and aid in the preparation of plans, services, studies and recommendations relative to the public purposes of the corporation;

j) Aid, assist and participate in clearing, rebuilding and rehabilitating blighted, deteriorated areas or structures;

k) Encourage citizen participation and assistance in industrial and commercial enterprises, housing and community improvements and to disseminate information to the general public concerning the purposes and objectives of the corporation;

l) Aid, assist and participate in the acquisition, rehabilitation or construction of industrial and commercial improvements, dwelling units or other structures or matters incidental thereto;

m) Hold, demolish, repair, alter and improve or otherwise develop, clear and dispose of real property;

n) Enter into agreements and contracts with any state agency or department, its political subdivisions and agency or department thereof, or any other official public body and any individual, corporation or other organization in connection with the purpose of the corporation;

o) Accept, hold, own, and acquire by bequest, devise, gift, purchase, or lease any property, real or mixed, whether tangible or intangible, without limitation as to kind, amount or value;

p) Sell, convey, lease, rent, mortgage, or make loans, grants or pledges of any such property, or any interest therein or proceeds therefrom, and to invest and reinvest the principal thereof and receipts therefrom, if any;

q) Carry on any activity for the purposes above stated, either directly or as agent, for or with public authorities, individuals, corporations or other organizations, or in whole or in part through or by means of public authorities, individuals, corporations or other organizations;

r) In general, and subject to such limitations and conditions as are or may be prescribed by law, to exercise such other powers which now are or hereafter may be conferred by law upon a corporation organized pursuant to Act 338, Public Acts 1974, as amended, and for the foregoing purposes.

Article IV
Board of Directors

1. Directors:

The Board of Directors of the Corporation shall consist of nine persons, not more than three of whom shall be an officer or employee of the City. The Board of Directors of the Corporation shall be appointed by the Mayor of the City of Holland with the advice and consent of the City Council, as amended. The Directors shall be appointed for terms of six years, except of the Directors first appointed, four shall be appointed for six years, one for five years, one for four years, one for three years, one for two years and one for one year.

2. Additional Directors:

In accordance with Act 338, Public Acts of Michigan, 1974, as amended, the Mayor, with the advice and consent of the City Council, shall appoint two additional directors to the Board of Directors of the Corporation for each project proposed by the Corporation. Each of said additional Directors appointed pursuant to this paragraph 2, Article IV, shall serve as Directors of the Corporation until the project for which they are appointed is either abandoned or, if undertaken, is completed in accordance with the project plan, at which time each such director shall cease to serve.

Article V
Officers

The Board of Directors of the Corporation, by an affirmative vote of a majority of its members (not counting additional directors appointed pursuant to paragraph 2 of Article IV, hereof), shall elect as the officers of the Corporation, a President, a Secretary and a Treasurer, and from time to time may elect one or more Vice-Presidents and such Assistant Secretaries, Assistant Treasurers and such other officers, agents and employees as the Board of Directors may deem proper. Any two offices other than the office of President, Secretary, and Treasurer may be held by the same person.

The officers of the Corporation shall serve for a term of one year and thereafter until his/her successor is elected and qualified, or until death, resignation or removal.

Article VI
Powers and Duties

The powers and duties of the Corporation and its officers are to assist in alleviating and preventing conditions of unemployment; to assist and retain local industries and commercial enterprises; to assist industrial and commercial enterprises in locating, purchasing, constructing, reconstructing, modernizing, improving, maintaining, repairing, furnishing, equipping and expanding in, the City; and to construct, acquire by gift or purchase, reconstruct, improve, maintain, modernize, repair, furnish, equip and expand Projects (as the word "Project" is defined in Act 338, Public Acts 1974, as amended), and acquire the necessary lands for the site therefor; to acquire by gift or purchase the necessary machinery, furnishings, and equipment for a Project; to borrow money and issue revenue bonds or revenue notes to finance all or part of the cost of a Project, including machinery, furnishings and equipment and the necessary site or sites therefor; to enter into, execute and carry out leases, lease purchase agreements, installment sales contracts with any person, firm or corporation for the use or sale of the Project; to lease, mortgage, sell and convey the Project or any part thereof for a price and at a time as the Corporation determines; to lend, grant, transfer, or convey funds as permitted by law, and in general to do and have such powers not prohibited by law and to this extent all powers provided and conferred by law upon corporations created and incorporated pursuant to Act 338, Public Acts of Michigan, 1974, as amended, are hereby incorporated herein as powers of the Corporation and its officers, in addition to all other powers conferred thereupon by law. It shall be the power and the duty of the officers of the Corporation to implement, carry out, and execute the above described powers and duties of the Corporation.

Article VII
Body Corporate

The Corporation shall be a body corporate with power to sue and be sued in any court of this state. It shall possess all the powers necessary to carry out the purpose of its incorporation and those incidental thereto. The enumeration of any powers in these Articles of Incorporation shall not be construed as a limitation upon such general powers of the Corporation.

Article VIII
Location

Location of the first offices of the Economic Development Corporation of the City of Holland is Holland City Hall, 270 River Avenue, Holland, Michigan, 49423.

Article IX
Registered Agent

The name of the resident agent at the registered office is the Holland City Clerk.

Article X
Non-stock: Assets

The Corporation is organized upon a non-stock basis. The amount of assets which said Corporation possesses is:

1) Real property: None

2) Personal property; None

The Corporation will be financed from donations, gifts, grants and devices, either solicited or unsolicited, obtained from public authorities, individuals, corporations and other organizations, by earnings from its activities, borrowings, and issuance of bonds and notes.

Article XI
Incorporators

The names and addresses of each of the incorporators are as follows:

Robert De Young	140 Sunset Drive Holland, Michigan
Paul vander Leek	56 West 39th Street Holland, Michigan
David L. Meier	125 West 11th Street Holland, Michigan

Article XII
Term

The term of existence of the Corporation is perpetual or until dissolved in accordance with Act 338, Public Acts of Michigan, 1974, as amended.

Article XIII
Bylaws and Regulation of Affairs

The Board of Directors, by an affirmative vote of a majority of its members (not counting additional directors appointed pursuant to paragraph 2 of Article IV, hereof), shall adopt bylaws for the operation of affairs of the Corporation.

The regulation of the internal affairs of the corporation, including the distribution of assets on dissolution or final liquidation is placed entirely with the Board of Directors or their successors, provided in the by-laws this corporation is subject, however, to the provisions of Act No. 338 of the Public Acts of 1974, as amended.

Article XIV
Publication of Articles of Incorporation

The name of the newspaper in which the Articles of Incorporation shall be published is The Holland Sentinel, a newspaper of general circulation in the City of Holland. The director elected as Secretary of the Corporation shall also act as Recording Officer of the Corporation. The Clerk of the City of Holland shall cause a copy of the Articles of Incorporation to be published once in said newspaper.

Article XV
Net Earnings

No part of the net earnings of the Corporation, beyond that necessary for the retirement of indebtedness or to implement the public purposes or program of the City shall inure to the benefit of any person, firm or corporation, other than the City (except that reasonable compensation may be paid for services rendered to or for the Corporation affecting one or more of its purposes), and no member, trustee, officer or director of the Corporation or any private individual shall be entitled to share in the distribution of any of the corporate assets on dissolution of the Corporation. No substantial part of the activities of the Corporation shall be the carrying on of propaganda, or otherwise attempting, to influence legislation and the Corporation shall not participate in, or intervene in (including the publication or distribution of statements) any political campaign on behalf of any candidate for public office. Upon the termination or dissolution of the Corporation, after adequate provision has been made for all obligations of the Corporation, surplus earnings, all property and assets of the Corporation shall belong to and be paid only to the City of Holland, Michigan, or its successor.

We, the incorporators, sign our names this _____ day of _____, 197____.

_____

Robert De Young

_____

Paul vander Leek

_____

David L. Meier

STATE OF MICHIGAN

ss.

County of Ottawa

On this _____ day of _____, 197 ____, before me personally appeared Robert De Young, Paul vander Leek, and David L. Meier to me known to be the persons described in and who executed the foregoing instrument and acknowledged that they executed the same as their free act and deed.

_____

Notary Public, Ottawa County, Michigan

My commission expires_____

Sec. 2-94. Filing with Department of Treasury. [Ord. No. 699]

That a certified copy of this article shall be filed with the corporation division of the department of treasury in accordance with Section 5, Subparagraph (1) of Act 338, Public Acts of 1974.

Sec. 2-95. Direction to incorporate. [Ord. No. 699]

That the applicants in the application dated July 6, 1977, are hereby authorized and directed to incorporate the economic development corporation of the City as a nonprofit corporation pursuant to Act 327 of the Public Acts of 1931, as amended, (Sections 450.62 to 450.192, Michigan Compiled Laws).

Sec. 2-96. Incorporation within 90 days. [Ord. No. 699]

That, pursuant to Act 338, Public Acts of 1974, if incorporation by the applicants is not accomplished within 90 days after the effective date of this article, then this article shall be void.

ARTICLE XIV
Mainstreet Downtown Development Authority[9]

Sec. 2-97. Establishment. [Ord. No. 717; Ord. No. 1017, 7-10-1991]

In recognition of the fact that it is necessary for the best interests of the public to halt property value deterioration and increase property tax valuation in the City downtown business district and to promote the economic growth of the City downtown business district, a Downtown Development Authority is hereby established pursuant to Act No. 197 of the Public Acts of 1975, to be known as the City of Holland Mainstreet/Downtown Development Authority.

Sec. 2-98. Powers; duties; boundaries. [Ord. No. 717; Ord. No. 909, 8-20-1986; Ord. No. 958, 8-3-1988; Ord. No. 971, 2-15-1989; Ord. No. 1228, 12-2-1998; 1-17-2018 by Ord. No. 1704; 5-1-2019 by Ord. No. 1767]

The Downtown Development Authority shall have all of the powers and duties prescribed by Act No. 197 of the Public Acts of 1975, as amended (MCLA § 125.1651 et seq.), including but not limited to implementing development plans, acquiring and disposing of interests in real and personal property, levying an ad valorem tax, not to exceed two mills, on the real and tangible personal property in the downtown development district, issuing bonds and other evidence of indebtedness and authorizing the use of tax increment financing, all as more fully delineated in Act 197 of the Public Acts of 1975, as amended, to promote the economic growth of the downtown development district. The City shall exercise its powers within the following described area which shall be the "downtown development district":

All property bounded by the existing corporate limits of the City of Holland between Fairbanks and Maple Avenues, if extended, to the waters of Lake Macatawa on the north, Fairbanks Avenue on the east, 11th Street on the south, and an area described as west of Maple Avenue, if extended, to the water's edge of Lake Macatawa and north of 9th Street, if extended, to the water's edge of Lake Macatawa on the west, including such additional property which is legally described as follows: Part of Sections 20, 21, 28, and 29 of T5N, R15W, City of Holland, Ottawa County, Michigan, described as:

Beginning at the intersection of the north line of the CSX Railroad spur track with the east line of Section 29, said point being distance north 426.35 feet from the east 1/4 corner of Section 29 and proceeding thence easterly and northeasterly along the northerly and northwesterly right-of-way line of the CSX Railroad to the center line of the Macatawa River; thence northwesterly, southwesterly and westerly along the center line of the Macatawa River to the intersection with the center line of the northerly extension of College

9. Editor's Note: See Ord. No. 1002, adopted 3-7-1990, for information on the approval and adoption of the development plan and tax increment financing plan for the Downtown Development Authority.

Avenue; thence south along the center line of the extension of College Avenue to the south edge of the Macatawa River marsh; thence southeasterly along the southerly and southwesterly edge of Macatawa River marsh to the east line of Section 29; thence south along the east line of Section 29 to the point of beginning; which is zoned commercial (C-4, C-3, C-2, or C-1, or such future commercial classifications as shall be established), Windmill Island Neighborhood Business District, Planned Unit Development or Industrial (I-1 or I-2) but not including that property zoned R-TRN-Traditional Residential Neighborhood or PRD-Planned Residential Development.

Sec. 2-98.1. Board; membership; terms. [Ord. No. 972, 2-15-1989; Ord. No. 1375, 11-19-2003; Ord. No. 1421, 8-17-2005]

The Downtown Development Authority shall be under the supervision and control of a board consisting of the City Manager and 12 members. The Board shall be appointed by the City Manager and approved by City Council. Not less than a majority of the members shall be persons having an interest in property located in the downtown development district. Not less than one of the members shall be persons having an interest in property zoned Industrial and located in the downtown development district. Not less than one of the members shall be a resident of the downtown development district, if the downtown district has 100 or more persons residing within it. Of the members first appointed, an equal number of the members, as near as is practicable shall be appointed for one year, two years, three years, and four years. Notwithstanding, no member shall serve more than two consecutive four year terms or a total of eight consecutive years. If a member desires to serve on the Board after two consecutive four year terms or eight consecutive years, he or she will not be eligible to serve until one year has elapsed since the expiration of the two consecutive four year terms or eight consecutive years. An appointment to fill a vacancy shall be made by the City Manager for the unexpired term only. Members of the Board shall serve without compensation, but shall be reimbursed for actual and necessary expenses. The Board shall elect a member as a chairperson and vice-chairperson of the Board. A member shall not serve as either a chairperson or a vice-chairperson for more than [a] two-year term. After the chairperson's two-year term has expired, the vice-chairperson shall become chairperson of the Board for a two-year term. In the event a vice-chairperson declines to become chairperson at the end of the two-year term, the Board shall elect a chairperson and vice-chairperson from the remaining members of the Board. A former chairperson may not serve as a vice-chairperson until two years have elapsed since the expiration of the chairperson's two-year term. The operation and activities of the Board shall comply with Act 197 of the Public Acts of 1975, as amended; MCLA § 125.1651 et seq.

Sec. 2-99. Director; bond. [Ord. No. 717]

Any director of the Downtown Development Authority shall, before entering upon the duties of his or her office, post a bond in the penal sum of $10,000, payable to the authority for the use and benefit of the authority, approved by the Board and filed with the City Clerk. The premium on the bond shall be deemed an operating expense of the authority, payable from funds available to the authority for expenses of operation.

ARTICLE XIV.1

Downtown Principal Shopping District

Sec. 2-99.1. Establishment. [Ord. No. 1223, 9-16-1998; Ord. No. 1518, 9-3-2008]

In recognition of the fact that it is necessary for the best interests of the City of Holland to promote the economic health and development of a principal shopping district in order to promote, encourage, stimulate, preserve, and maintain the economic growth of the City downtown business district, the City Council of the City of Holland establishes a principal shopping district pursuant to Act 120 of the Public Acts of 1961 (MCLA § 125.981 et seq.).

Sec. 2-99.2. Powers; duties; boundaries. [Ord. No. 1223, 9-16-1998; Ord. No. 1349, 10-2-2002; Ord. No. 1355, 11-20-2002; Ord. No. 1518, 9-3-2008]

The City shall have the power and authority permitted and described by Act 120 of the Public Acts of 1961, as amended, including but not limited to, conducting market research and public relations campaigns, developing, coordinating, and conducting retail and institutional promotions, and sponsoring special events and related activities. The City shall further have the right and authority to acquire by purchase, gift, or condemnation, own, maintain, or operate real or personal property necessary to effectuate the intent and purposes of this ordinance. The City shall exercise its power and authority within the following-described area which shall be designated the "downtown principal shopping district."

All property within the corporate limits of the City of Holland located within the boundaries of the Downtown Development Authority, as defined in ordinance Section 2-98, as those boundaries may from time to time be amended.

For assessment purposes, the area described as the downtown principal shopping district may be divided into subareas with differing rates as designated with the annually adopted principal shopping district assessment policy.

Sec. 2-99.3. Board; membership; terms. [Ord. No. 1223, 9-16-1998; Ord. No. 1227, 11-4-1998; Ord. No. 1518, 9-3-2008]

The downtown principal shopping district shall be under the supervision and control of a board consisting of nine members. The Board shall be appointed by the City Manager with the concurrence of City Council. One member of the Board shall be from an adjacent residential area; one member shall be a representative of City government; and a majority of the members shall be nominees of individual business located within the principal shopping district. Of the members first appointed, an equal number of the members, as near as practicable, shall be appointed for one year, two years, three years, and four years. A member shall hold office until the member's successor is appointed. Thereafter, each member shall serve a term of four years. An appointment to fill a vacancy shall be made by the City Manager upon concurrence of the City Council for the unexpired term only. Members of the Board shall serve without compensation. The chairperson of the Board shall be elected by the Board. The operation and activities of the Board shall comply with the provisions of Act 120 of the Public Acts of 1961, as amended.

Sec. 2-99.4. Financing of a project or redevelopment project. [Ord. No. 1223, 9-16-1998; Ord. No. 1518, 9-3-2008]

A principal shopping district project, as authorized and defined by Act 120 of the Public Acts of 1961, as amended, may be financed in whole or in part by grants and gifts to the City; City funds; the issuance of general obligation bonds of the City; the issuance of revenue bonds of the City; the levying of special assessments against land or interests in land, or both; and such other financing powers and authorities as shall exist pursuant to Act 120 of the Public Acts of 1961, as existing or amended. The use of the term "public improvement" shall not prevent the levying of a special assessment for the cost of a downtown principal shopping district project representing special benefits.

ARTICLE XIV.2
Corridor Improvement Authority/Columbia Art District

Sec. 2-99.5. Establishment. [Ord. No. 1489, 1-9-2008]

Pursuant to the provisions of Act 280 of the Public Acts of 2005, MCLA § 125.2871 et seq. ("Act"), and for the purpose of creating a commercial corridor to promote economic growth and for those purposes delineated in the Act, the City of Holland establishes the Columbia ART District (the "CAD") as a corridor improvement authority.

Sec. 2-99.6. Powers. [Ord. No. 1489, 1-9-2008]

The Corridor Improvement Authority/CAD shall have such powers and authority as are delineated in the Act, and specifically those powers designated pursuant to MCLA § 125.2881, as now existing or hereafter amended.

Sec. 2-99.7. Boundaries of the development area. [Ord. No. 1489, 1-9-2008]

The boundaries of the Corridor Improvement Authority/CAD which shall constitute the development area within which the Authority may exercise its powers are described as follows:

Beginning at the intersection of 15th Street and Columbia Avenue; thence west 118; thence south 165.65 to the southwest corner of Lot 1, Block 458, Assessor's Plat No. 2; thence west 19.45 to the northwest corner of Lot 40, Block 458, Assessor's Plat No. 2; thence south 495 to the center line of 17th Street, said point being 33 south of the southwest corner of Lot 19, Block 202, Bosman's Addition; thence east to the intersection of 17th Street and Columbia Avenue; thence southerly along the center line of Columbia Avenue to the intersection of 22nd Street and Columbia Avenue; thence east 170 more or less to the intersection of 22nd Street and Columbia Avenue; thence southerly along the center line of Columbia Avenue to the intersection of 24th Street and Columbia Avenue; thence east 650 more or less to the center line of CSX Railroad right-of-way; thence northwesterly along said center line to a point being 50 east of the northeast corner of Lot 1, Block 320, Bosman's Addition; thence west 96 to the northwest corner of Lot 1, Block 320, Bosman's Addition; thence south 138 to the northwest corner of Lot 14, Block 320, Bosman's Addition; thence west to the northeast corner of Lot 10, Block 320, Bosman's Addition; thence north along the easterly lot line of Lot 5, Block 320, Bosman's Addition, to the center line of 18th Street; thence westerly along said center line 92 to a point being 33 south of the southwest corner of Lot 9, Block 228, Bosman's Addition; thence north to the northwest corner of Lot 9, Block 228, Bosman's Addition; thence east 55 to a point directly south of the southeast corner of Lot 6, Block 228, Bosman's Addition; thence north along the east lot line of Lot 6, Block 228, Bosman's Addition, to the center line of 17th Street; thence west 1; thence north to the center line of the vacated alley of Block 226, Bosman's Addition; thence west to the center line of Columbia Avenue; thence north 312 along said center line; thence east 88 to a point 50 north of the southwest corner of Lot 7, Block 479, Assessor's Plat No. 2; thence west 88 along the north lot line of Lot 6, to the center line of Columbia Avenue; thence north to POB.

The development area, as described above, is depicted on a map on the attached Exhibit A, the terms of which are incorporated by reference.

Sec. 2-99.8. Board/membership. [Ord. No. 1489, 1-9-2008]

(a) The Corridor Improvement Authority/CAD shall be under the supervision and control of a board consisting of the City Manager or his/her assignee and eight members. Members shall be appointed by the City Manager subject to the approval of the City Council. Not less than a majority of the members of the Board shall be persons having an ownership or business interest in property located in the development area as described in Section 2-99.7. At least one of the members shall be a resident of the development area as described in Section 2-99.7 or of an area within 1/2 mile of any part of the development area. Of the members first appointed, an equal number of the members, as near as practicable, shall be appointed for one year, two years, three years, and four years. A member of the Board shall hold office until the member's successor is appointed. After initial appointment, each member shall serve a term for four years. An appointment to fill a vacancy shall be made by the City Manager for the unexpired term only. All members of the Board shall serve without compensation, but shall be reimbursed for actual and necessary expenses. The chairperson of the Board shall be elected by the members of the Board.

(b) Before assuming the duties of office, a member of the Board shall be qualified by taking and subscribing to the constitutional oath of office.

(c) The proceedings and rules of the Board shall be subject to the Open Meetings Act, Public Act 267 of the Acts of 1976 (MCLA §§ 15.261 to 15.275). The Board shall adopt rules governing its procedure and holding of regular meetings, subject to the approval of the City Council. Special meetings of the Board may be called in the manner provided in the rules of the Board.

(d) After having been given notice and an opportunity to be heard, a member of the Board may be removed for cause by the City Council.

(e) All expense items of the authority shall be published monthly and the financial records shall be open to the public. For purposes of this section, "published" shall mean that the expenses of the authority are duly recorded in the minutes of the authority.

(f) A writing prepared, owned, used, in the possession of, or retained by the Board in the performance of an official function is subject to the Freedom of Information Act, Public Act 442 of 1976 (MCLA §§ 15.231 to 15.246).

Sec. 2-99.9. Dissolution. [Ord. No. 1489, 1-9-2008]

The City of Holland retains the right to dissolve the Authority, by ordinance, in the event it has completed the purposes for which it was organized. In the event of dissolution, the property and assets of the authority remaining after the satisfaction of the obligations of the authority shall belong to the City of Holland.

ARTICLE XV
Historic Districts and Historic District Commission

Sec. 2-100. Intent and purpose. [Ord. No. 1207, 2-18-1998[10]]

The purpose of this article is to safeguard the heritage of the City by preserving districts or individual sites which relate elements of the cultural, social, economic, political or architectural history; stabilize and improve property values; foster civic beauty and pride; strengthen the economy.

Sec. 2-100.1. Definitions. [Ord. No. 1207, 2-18-1998]

ALTERATION — Work that changes the detail of a resource but does not change its basic size or shape.

CENTER — The Michigan Historical Center of the Michigan Department of State, formerly known as the Bureau of History.

10. Editor's Note: This ordinance amended former Art. XV, which pertained to historic districts and the Historic District Commission, in its entirety. Said Art. XV was adopted 7-2-1986 by Ord. No. 904, and amended 11-17-1993 by Ord. No. 1099 and 6-15-1994 by Ord. No. 1114.

CERTIFICATE OF APPROPRIATENESS (COA) — The written approval of a permit application to apply for a building permit if required, for work that is determined to be appropriate and that does not adversely affect a resource.

COMMISSION — The Historic District Commission which is responsible for implementing Public Act 169 of 1970 as amended[11] and the City's historic district ordinance for the City of Holland.

COMMITTEE — A historic district study committee appointed by the City Council.

DEMOLITION — The razing of a resource, whether entirely or in part, which may include, but is not limited to demolition by neglect.

HISTORIC DISTRICT — An area, or group of areas not necessarily having contiguous boundaries, that contains one resource or a group of resources that are related by history, architecture, archaeology, engineering or culture.

HISTORIC LANDMARK — Any structure, site, object, feature, or open space that is significant in the history, architecture, archaeology, engineering, or culture of this City, state, or of the United States. A landmark is a historic district as defined in this section which contains only one resource.

HISTORIC RESOURCE — A structure, site, object, feature, or open space that is significant in the history, architecture, archaeology, engineering, or culture of this City, state, or of the United States.

NOTICE TO PROCEED — Authorization to perform work that does not qualify for a COA but may legally be accomplished following conferral of this document.

OPEN SPACE — Undeveloped land, a naturally landscaped area, or a formal or man-made landscaped area that provides a connective link or a buffer between other resources.

ORDINARY MAINTENANCE — Keeping a resource unimpaired and in good condition through ongoing minor intervention to the exterior of a resource. Ordinary maintenance does not change the exterior appearance of the resource except through the elimination of the usual and expected effects of weathering. Ordinary maintenance does not constitute work for purposes of this act.

REPAIR — To restore a decayed or damaged resource to a good or sound condition by any process. A repair that changes the external appearance of a resource constitutes an alteration for purposes of this act.

RESOURCE — A building, structure, site, object, feature or open space located within a historic district, or described as a historic landmark.

WORK — Construction, addition, alteration, repair, moving, excavation or demolition.

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11. Editor's Note: See MCLA § 399.201 et seq.

Sec. 2-100.2. Historic district established. [Ord. No. 1207, 2-18-1998; Ord. No. 1235, 2-3-1999; Ord. No. 1281, 6-21-2000; Ord. No. 1320, 10-17-2001; Ord. No. 1446, 3-1-2006; Ord. No. 1548, 7-7-2010]

The historic districts of the City of Holland are hereby established pursuant to Act 169 of the Public Acts of 1970 as amended, and shall be legally described as follows:

(1) Properties of the Holland Historic District: Those portions of the Original Plat of the City of Holland, Ottawa County, Michigan, described as Lot 5, Lot 6, the east 62.5 feet of Lot 7, and Lots 10 through 16, also the south 20 feet of Lot 9 of Block 47; also, all of Block 48; also, all of Block 56; also, all of Block 57, except the east 98 feet of Lot 1 and the east 163.4 feet of Lot 6 thereof. Also included are those portions of the West Addition to the City of Holland as described as the south one-half of Block E, except the north 14 feet of Lot 16 thereof; also, the south one-half of Block F; also, all of Block G and all of Block H. Also included are those portions of the Southwest Addition to the City of Holland described as the south one-half of Block 4, except the north 55 feet of the west 42 feet thereof; also, all of Block 5; also, Lots 1 through 8 and Lots 16 through 18 of Block 8; also, all of Block 9; also, Block 5 of Assessor's Plat No. 2 except Lots 1, 27, 28, 29, 30 and 31 thereof; also, Lots 1 through 28 of Vander Veen's Subdivision and Lots 1 through 5 of Block 6 of Assessor's Plat No. 2 (being that entire block bounded by 15th and 16th Streets and River and Pine Avenues). Part of the SW 1/4 Sec. 29-5-15 of the Original Town Plat, designated as Market Square, now known as Centennial Park; also, the north 1/2 of Block 55, Original Town; also, that part of Block 49, Original Town, described as the west 45.5 feet of Lot 7 and Lot 8 except the east 121 feet, all of Lots 8 and 9 and all of Lot 10, except the east 40 feet; also, that portion of Block 54, Original Town, described as the west 3.38 feet of Lot 2 and all of Lots 3 through 7 thereof. For purposes of district continuity, the foregoing descriptions shall be deemed to extend to the center lines of any streets or highways adjacent thereto.

(2) Properties of the Washington Boulevard Historic District: Those portions of the original plat of the City of Holland, Ottawa County, Michigan, described as the west 21 feet of Lot 2 and Lots 3, 4, 5 of Steketee Brothers Addition; Lots 1 through 5 and Lots 11 and 12 of Block 18 of the Southwest Addition; Lot 12 and the east 20 feet of Lot 11 and Lots 1 and 2 and the east five feet of Lot 3, Block 13, Southwest Addition; Lots 1, 11 and 12 of Block 12, Southwest Addition; Lots 1 through 6 and Lots 11 and 12, Block 7, Southwest Addition; Lots 1 through 3 and lots 7, 8 and the north 25.7 feet of Lot 9, Block 5 Hope College Addition; all of Block 6, Southwest Addition; all of Block 4, Hope College Addition; all of Block 3, Southwest Addition; all of Block 3, Hope College Addition; all of Block 2, Southwest Addition; all of Block 2, Hope College Addition; Lots 7 and 8, Tannery Addition; Lots 8 through 11 and the west 41.25 feet of lot 12, Block B, West Addition; Lots 3 through 12 of Block C, West Addition and all of Block 1, Southwest Addition; Lots 1 through 7, Block F, West Addition; Lots 1, 2 and the north 55 feet of the west 42.3 feet of Lot 3, Block 4, Southwest Addition; Lots 9 through 15, Block 8, Southwest Addition; the north 106 feet of Lot 1, Lot 2 except the east 12 feet of the south 26 feet thereof, and Lots 3 through 10, Block 11, Southwest Addition; Lot 9 and the west 50 feet of Lot 10, Block 14, Southwest Addition; the west 45 feet of Lot 9 and the west 44 feet of Lot 10, Block 17, Southwest Addition.

For purposes of continuity, the foregoing descriptions shall be deemed to extend to the center line of any streets, alleys or highways adjacent thereto.

(3) Van Raalte Farm Historic District: The north 3/4 of the northeast 1/4 of the northeast 1/4 of Section 34, T5N, R15W, City of Holland, Ottawa County, Michigan (consisting of approximately 30 acres) and also commonly described as 1076 East 16th Street, Holland, Michigan.

(4) Landmark Properties: City Greenhouses, 22nd at Central. That part of the SE 1/4 of the NW 1/4 of Sec. 32, Town 5 North, Range 15 West, bounded on the east by Central Avenue and on the south and west by State Street, and on the north by 20th Street, Ottawa County, Michigan.

(5) Keppel's Village Historic District. The district is located within Section 29, Town 5 North, Range 15 West, Block 58 of the Plat of the Village, now City of Holland. The District consists of platted Lots 1, 2 and 10 of Block 58, the original plat of the Village, now City of Holland, plus Lot 9 except the west 10 feet thereof, designated as Permanent Parcel Numbers: 70-16-29-379-006, 70-16-29-379-009, 70-16-29-379-010, 70-16-29-379-011, 70-16-29-379-012, and 70-16-29-379-013, The proposed district is also described as the lots fronting the west side of Central Avenue between 13th Street and 14th Street as well as the first lots to the west of these lots on the same block on both 13th and 14th streets. The district also includes the lot on the northeast corner of 13th Street and Central Avenue that is occupied by a duplex constructed in 1966.

Sec. 2-101. Historic District Commission established. [Ord. No. 1207, 2-18-1998; Ord. No. 1385, 5-12-2004]

(1) Pursuant to P.A. 169 of 1970, as amended, a Historic District Commission consisting of seven members who shall be residents of the City shall be appointed by the Mayor, with approval of City Council. Members shall be appointed for three-year terms with initial appointments of lesser duration staggered for the first three years. Members shall be eligible for reappointment, not to exceed two consecutive full terms. To the extent available, one member shall be a graduate of an accredited school of architecture, who has two years of architectural experience or who is an architect registered in this state. After expiration of an architect member's initial term and renewal term, the architect may be reappointed to the Commission to serve an additional renewal term(s) in the event that no suitable architect residing in the City of Holland is able or willing to serve as a member of the HDC. Three members of the Commission shall be representative of the district or districts by either residing or owning property therein.

(2) The Commission shall establish organizational and operating procedures including the adoption of a meeting schedule. The Commission may adopt its own rules of procedure and may adopt design guidelines.

(3) The Commission may also undertake the following:

(a) Assist and collaborate in studies and programs designed to identify and evaluate the structure, site and areas worthy of preservation.

(b) Consult with and consider the ideas and recommendations of civic groups, public agencies and citizens interested in historic preservation.

(c) Inspect and investigate structures, sites and areas in which the Commission has reason to believe worthy of preservation.

(d) Disseminate information to the public concerning those structures, sites and areas worthy of preservation and encourage and advise property owners regarding the protection, enhancement, perpetuation and use of resources in the district and other officially recognized properties of historic interest.

(e) Consider methods other than those provided in this chapter for encouraging and achieving historic preservation and make recommendations to City Council and other public and private bodies and agencies related thereto.

(f) Use its own funds, gifts, state and federal grants or other resources received for historic preservation purposes in accordance with the purposes of this chapter.

Sec. 2-102. Commission duties. [Ord. No. 1207, 2-18-1998]

(1) Before proceeding with any work affecting the exterior appearance of a resource or interior work which will cause visible changes to the exterior of the resource, a certificate of appropriateness (COA) is required. An application for a COA shall be submitted by the property owner to the department of community services and development and shall be reviewed and decided by the Commission.

(2) In reviewing plans, the Commission shall follow the U.S. Secretary of Interior's Standards for Rehabilitation and guidelines for rehabilitating historic buildings, as set forth in 36 C.F.R. part 67, and consider the following:

(a) The historic or architectural value and significance of the resource and its relationship to the historic value of the surrounding area.

(b) The relationship of any architectural features of the resource to the rest of the resource and to the surrounding area.

(c) The general compatibility of design, arrangement, texture, and materials proposed to be used.

(d) Other factors, such as aesthetic value, that the Commission considers relevant.

(3) When an application is submitted for work affecting the exterior of a resource considered by the Commission to be so valuable to the local unit, state, or nation that its alteration or loss adversely affects the public purpose of the local unit, state, or nation, the Commission shall attempt to establish with the owner of the resource an economically feasible plan for preservation of the resource.

(4) The Commission shall issue a notice to proceed for work affecting the exterior appearance of a resource to the extent necessary to mitigate any of the following conditions:

(a) The resource constitutes a hazard to the safety of the public or to the structure's occupants.

(b) The resource is a deterrent to a major improvement program that will be of substantial benefit to the community.

(c) Retaining the resource will cause undue financial hardship to the owner when a governmental action, an act of God, or other events beyond the owner's control created the hardship, and all feasible alternatives to eliminate the financial hardship, which may include offering the resource for sale at its fair market value or moving the resource to a vacant site within the historic district, have been attempted and exhausted by the owner.

(d) Retaining the resource is not in the interest of the majority of the community as determined by majority approval of a vote of the Commission.

(5) The business that the Commission may perform shall be conducted at a public meeting of the Commission held in compliance with the Michigan Open Meetings Act.

(6) The Commission shall keep a record of its resolutions, proceedings and actions available for public inspection.

(7) The COA and notice to proceed shall be effective for one year from the date of issuance. The applicant may request an extension of this time period by submitting a written request for extension to the Commission. The written request shall be filed with the department prior to the one-year expiration period. If this time period expires without exercising the applicant's right to secure a building permit or without substantial work begun on the resource, then the COA or notice to proceed shall be considered expired and reapplication would be required. An applicant shall proceed with diligence to complete a project.

(8) The Commission may delegate the issuance of a COA for minor work to community services and development staff. The Commission shall provide written standards for issuance of such COA. Quarterly the Commission shall review the COA issued by staff.

(9) The Commission shall file with the Building Inspector or other duly delegated authority the COA or denials of applications submitted for review. Work shall not proceed, nor shall a building permit be issued until the Commission has acted as prescribed herein. If an application is denied, the decision shall be binding on the Building Inspector or other delegated authority. A denial shall be accompanied with a written explanation by the Commission of the reasons for denial and, if appropriate, a notice that an application may be resubmitted for Commission review when suggested changes have been made. The denial shall also include notification of the applicant's right to appeal to the state historic preservation review board and to the circuit court.

Sec. 2-102.1. Criteria and standards for the VanRaalte Farm Historic District. [Ord. No. 1446, 3-1-2006]

For the original 30 acres described in Section 2-100.2(3), as the VanRaalte Farm Historic District, the Historic District Commission shall apply the standards and criteria set forth in

Section 2-102 and shall review any proposed physical changes to the VanRaalte Farm Historic District or its master plan, in accordance with the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings as set forth in 36 C.F.R. Part 67, and the Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for the Treatment of Cultural Landscape and Preservation Brief #36 Protecting Cultural Landscapes Planning, Treatment and Management of Historic Landscape, a publication of the National Park Service.

The Historic District Commission may refer an application for a certificate of appropriateness to the Leisure and Cultural Services Commission for the purpose of providing information regarding the impact of proposed changes to the farm's historical and architectural integrity prior to the granting or denial of the certificate of appropriateness.

Sec. 2-102.2. VanRaalte Farm property located outside of the VanRaalte Farm Historic District—advisory recommendation. [Ord. No. 1446, 3-1-2006]

(1) For the area consisting of approximately 130 acres of the VanRaalte Farm located outside of the boundaries of the VanRaalte Farm Historic District, which is legally described as follows: the Northeast 1/4 EXCEPT the North 3/4 of the Northeast 1/4 of the Northeast 1/4 of Section 34 Town 5N Range 15 W City of Holland, Ottawa County, Michigan, the Historic District Commission shall provide advisory recommendations to the Holland City Council for proposed physical changes, structures, and improvements to the VanRaalte Farm. In no event shall the Council of the City of Holland be bound by the advisory review and recommendation of the Holland Historic District Commission, and the Council may accept, deny, or modify any recommendation based upon its sole legislative discretion.

(2) The Holland Historic District Commission, in advising the Holland City Council, shall follow the U.S. Secretary of Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings, as set forth in 36 C.F.R. part 67, and the Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for the Treatment of Cultural Landscape and consider the following:

(a) The historic or architectural value and significance of the resource buildings and landscapes and their relationship to the historic value of the surrounding area.

(b) The relationship of any architectural features and landscape of the resource to the rest of the resource and to the surrounding area.

(c) The general compatibility of design, arrangement, texture, size, scale and materials proposed to be used.

(d) Preservation Brief #36 Protecting Cultural Landscapes Planning, Treatment and Management of Historic Landscape a publication of the National Park Service, and consider the following:

1. Viewsheds seen from the 30 acres designated as the VanRaalte Farm Historic District and viewsheds from the public rights-of-way adjacent to the VanRaalte Farm property and other locations of aesthetic importance at the farm;

2. Character defining features of the VanRaalte Farm such as fence rows, significant vegetation, historic circulation features, historic noninhabitable constructed features (walls, gates, and bridges), trails, and location of other historical elements of the landscape.

(e) Other factors of historic and aesthetic value as the Historic District Commission considers relevant.

The Historic District Commission shall submit its written recommendations and findings to the Holland City Council within 30 days of referral.

Sec. 2-103. Work completed without a certificate of appropriateness. [Ord. No. 1207, 2-18-1998]

When work has been done upon a resource without a COA, an application must be immediately submitted. If the Commission finds that the work does not qualify for a COA, the Commission may require an owner to restore the resource to the condition the resource was in before the inappropriate work, or to modify the work so that it qualifies for a COA. If the owner does not comply with the restoration or modification requirement within a reasonable time as determined by the Commission, the Commission may seek an order from the circuit court to require the owner to restore the resource to its former condition or to modify the work so that it qualifies for a COA. If the owner does not comply or cannot comply with the order of the court, the Commission or its agents may enter the property and conduct work necessary to restore the resource to its former condition or modify the work so that it qualifies for a COA in accordance with the court's order. The cost of the work shall be charged to the owner, and may be levied by the City as a special assessment against the property. When acting pursuant to an order of the circuit court, a Commission or its agents may enter a property for purposes of this section.

Sec. 2-104. Areas not regulated. [Ord. No. 1207, 2-18-1998; Ord. No. 1446, 3-1-2006]

With the exception of those standards and criteria applicable to the VanRaalte Farm Historic District, pursuant to Section 2-102.1, or to the remainder of the VanRaalte Farm property pursuant to Section 2-102.2, nothing contained in this article shall be construed to prevent ordinary maintenance or repair of any resource within the historic district; nor to prevent construction, alteration, repair, moving, or demolition of any resource under a permit issued by the City prior to the adoption of this article. Unless subsequently made applicable by amendment, the provisions of this article shall not apply to the following installations, features, or activities affecting the historic district:

(a) Reroofing with like materials, painting, and routine repairs.

(b) Flat concrete work, playgrounds, public streets, and sidewalks.

(c) Yards, gardens, planters, landscaping and trees.

(d) Regulatory and advisory street signs, hydrants, poles, pedestals, transformers, or similar installations essential to the delivery of public and private utilities and public services.

(e) Such other construction or repair activities or installations which the Historic District Commission, by adoption of specific resolution, may authorize the Building/Zoning Administrator to approve without subsequent review and approval.

Sec. 2-105. Acquisition of a resource. [Ord. No. 1207, 2-18-1998]

Where City Council determines public ownership of a resource is most suitable, Council may acquire the resource using public funds, public or private gifts, grants or proceeds from the issuance of revenue bonds. In considering acquisition Council shall request a written recommendation from the Commission. Upon recommendation of the Commission, the City may sell resources acquired while retaining protective easements assuring historic preservation of the resource.

Sec. 2-106. Failure to act. [Ord. No. 1207, 2-18-1998]

The failure of the Commission to act within 60 calendar days after the date a complete application is filed, unless an extension is mutually agreed upon in writing by the applicant and the Commission, shall be deemed to constitute approval.

Sec. 2-107. Appeal. [Ord. No. 1207, 2-18-1998]

An applicant aggrieved by a decision of the Historic District Commission may file an appeal with the State Historic Preservation Review Board of the center. The appeal shall be filed within 60 days after the decision by the Commission. An applicant aggrieved by the decision of the state historic preservation review board may appeal the decision to the circuit court.

Sec. 2-108. Enforcement; violations. [Ord. No. 1207, 2-18-1998]

(1) After issuance of a COA or notice to proceed or if a violation of this article is suspected, the City's designated representative may from time to time inspect the exterior of properties covered by this article.

(2) The enforcement of this article shall be the responsibility of this Historic District Commission, in conjunction with the Building/Zoning Administrator and Zoning Administrator of the City. A person, individual, partnership, firm, corporation, organization, institution or agency of government that violates this act is responsible for a civil infraction and may be fined not more than $5,000.

(3) A person, individual, partnership, firm, corporation, organization, institution, or agency of government that violates this act may be ordered by the court to pay the costs to restore or replicate a resource unlawfully constructed, added to, altered, repaired, moved, excavated, or demolished.

ARTICLE XVA

Parks and Recreation Advisory Commission

Sec. 2-108.1. Intent and purpose. [Ord. No. 1088, 5-19-1993; 10-17-2012 by Ord. No. 1594]

The purpose of this article is to establish the Parks and Recreation Advisory Commission to provide review and recommendations regarding the diverse leisure and cultural services of the City of Holland to the Director of Parks and Recreation and the City Council of the City of Holland. This article is intended to improve leisure and cultural services for the citizens and neighborhoods of the City of Holland in order to enhance the quality of life through its parks, recreational programs, and other leisure activities for the benefit of the health, safety, and general welfare of the City of Holland and its citizens.

Sec. 2-108.2. Establishment; membership. [Ord. No. 1088, 5-19-1993; 10-17-2012 by Ord. No. 1594]

There is hereby created and established the Parks and Recreation Advisory Commission which shall consist of seven members appointed by the Mayor upon approval by the City Council. The Commission shall be selected as follows:

(1) One member representing an educational institution serving the Holland area;

(2) One member representing the Friend of the Nature Center Citizen Support Group;

(3) Five members selected at large.

Sec. 2-108.3. Compensation; term of appointment. [Ord. No. 1088, 5-19-1993; 10-17-2012 by Ord. No. 1594]

All members of the Parks and Recreation Advisory Commission shall serve without compensation, and each member shall hold office until his/her successor is appointed. Each member shall be appointed to a three-year term, unless specifically appointed to fill the balance of an unexpired term.

Sec. 2-108.4. Powers and duties. [Ord. No. 1088, 5-19-1993; 10-17-2012 by Ord. No. 1594]

The Parks and Recreation Advisory Commission shall:

(1) Annually elect a Chairperson, such officers, and such committees from its membership as it may deem necessary; adopt bylaws, rules, and regulations for the proper conduct of its meetings and the discharge of its powers and duties; and keep minutes of all formal actions taken by the Commission in accordance with statute and ordinance.

(2) Recommend the appointment of subcommittees of the Parks and Recreation Advisory Commission for approval by City Council which shall meet to review and administer specialized projects and programs of the Commission.

(3) Meet at least monthly at regular stated times and places. All meetings shall be open to the public and shall be subject to the Open Meetings Act of the State of Michigan.

(4) Act in an advisory capacity to the Director of Parks and Recreation and the City Council in all matters pertaining to public recreation, parks, leisure services and properties owned or managed by the City of Holland for such purposes, including but not limited to the following:

a. Assisting the Director and City Council to define the goals and objectives of the divisions related to parks, recreation and leisure activities;

b. Assist the Director in the review and recommendations regarding management and policy directions of the divisions related to parks, recreation and leisure activities;

c. Assist the Director and City Council in reviewing the budget and financial plans for the organization, programs, services and operations of divisions related to parks, recreation and leisure activities;

d. Assist the Director in the development of programs and services for the planning of leisure and cultural services;

e. Assist the Director in informing and educating the public regarding the importance, need, and priority of recreation and park programs, facilities, and services;

f. Assist the Director and City Council with the establishment and maintenance of an effective public relations program;

g. Assist the Director in establishing and maintaining liaison and coordination with related community organizations, such as schools, community centers, senior centers, and like institutions to ensure the most effective and economical public services possible;

h. Render such additional services to the Director of Parks and Recreation and the City Council as the Council may from time to time require or request;

Sec. 2-108.5. Decisions of Commission. [Ord. No. 1088, 5-19-1993; 10-17-2012 by Ord. No. 1594]

The decisions of the Commission shall be advisory to the Director of Parks and Recreation and the City Council of the City of Holland relating to the stated purposes of the Commission. All legislative and policy making functions in the area of parks, recreation and leisure activities shall remain vested in the Council of the City of Holland or other public bodies as shall be designated by statute, ordinance, or regulation.

ARTICLE XVB
(Reserved)[12]

Sec. 2-108.6. through Sec. 2-108.12 (Reserved)

ARTICLE XVI
Budget Stabilization

Sec. 2-109. Fund established. [Ord. No. 757; amended 1-17-2018 by Ord. No. 1704]

Pursuant to Act No. 30 of the Public Acts of 1978 (MCLA §§ 141.441 to 141.445), a budget stabilization fund is created.

Sec. 2-110. Purposes. [Ord. No. 757; amended 1-17-2018 by Ord. No. 1704]

The purpose of the budget stabilization fund shall include those purposes specified pursuant to § 4 of Act No. 30 of the Public Acts of 1978 (MCLA § 141.444), including, but not limited to:

(a) To cover a general fund deficit, when the annual audit of the City reveals such a deficit;

(b) To prevent a reduction in the level of public services or in the number of employees at any time in a fiscal year when the City's budgeted revenue is not being collected in an amount sufficient to cover budgeted expenses;

(c) To prevent a reduction in the level of public services or in the number of employees when, in preparing the budget for the next fiscal year, the City's estimated revenue does not appear sufficient to cover estimated expenses; and

(d) To cover expenses arising because of a natural disaster, including a flood, fire or tornado. However, if federal or state funds are received to offset the appropriations from the fund, the money shall be returned to the fund.

Sec. 2-111. Appropriation to. [Ord. No. 757]

Each fiscal year following the fiscal year in which the fund is created, the City Council may appropriate, by ordinance or resolution adopted by a two-thirds vote of the members elected or serving, all or part of a surplus in the general fund resulting from an excess of revenue in comparison to expenses, to the fund. The money in the fund may be invested as provided by law with the earnings of the fund to be returned to the general fund of the City.

12. [Editor's Note: Former Article XVB, Windmill Island Advisory Commission, was repealed 1-17-2018 by Ord. No 1704.]

Sec. 2-112. Prohibitions on use of. [Ord. No. 757]

In the establishment and maintenance of the budget stabilization fund, the City may not:

(a) Impose additional taxes producing revenue in excess of that needed for its estimated budget in order to provide money to be appropriated to the fund;

(b) Accumulate money in the fund which shall exceed either 15% of the City's most recent general fund budget, as originally adopted, or 15% of the average of the City's five most recent general fund budgets, as amended, whichever is less. If the money in the fund exceeds that permitted in this subsection, the excess money shall be appropriated in the municipality's next general fund budget, but shall not be appropriated to the fund; or

(c) Appropriate monies in the budget stabilization fund for the acquisition, construction or alteration of a facility as part of a general capital improvement project.

ARTICLE XVII
Municipal Civil Infractions

Sec. 2-113. Definitions. [Ord. No. 1241, 3-24-1999; Ord. No. 1249, 5-5-1999]

As used in this article:

ACT — Act No. 236 of the Public Acts of 1961, as amended.[13]

AUTHORIZED CITY OFFICIAL — A police officer or other personnel of the City authorized by this Code or any ordinance to issue municipal civil infraction citations or municipal civil infraction notices.

BUREAU — The City of Holland Municipal Civil Infractions Bureau as established by this chapter and as authorized under Sections 8396 and 8707(6) of the Act.

MUNICIPAL CIVIL INFRACTION — An act or omission that is prohibited by this Code or any ordinance of the City, but which is not a crime under this Code or other ordinance, and for which civil sanctions, including, but not limited to, fines, damages, expenses and costs may be ordered as authorized by Chapter 87 of the Act, as amended.[14] A municipal civil infraction is not a lesser included offense of a violation of this Code that is a criminal offense.

MUNICIPAL CIVIL INFRACTION ACTION — A civil action in which the defendant is alleged to be responsible for a municipal civil infraction.

MUNICIPAL CIVIL INFRACTION CITATION — A written complaint or notice prepared by an authorized City official, directing a person to appear in court regarding the occurrence or existence of one or more municipal civil infraction violation(s) by the person cited.

MUNICIPAL CIVIL INFRACTION NOTICE — A written notice, other than a municipal civil infraction citation, prepared by an authorized City official, directing a person to appear

13. Editor's Note: See MCLA § 600.101 et seq.

14. Editor's Note: See MCLA § 600.8701 et seq.

at the City of Holland Municipal Civil Infractions Bureau and to pay the fine(s) and costs, if any, prescribed for the municipal civil infraction(s) by the schedule of civil fines adopted by the City, as authorized under Sections 8396 and 8707(6) of the Act.

REPEAT OFFENSE — A second (or any subsequent) municipal civil infraction violation of the same requirement or provision which is committed by a person within a twenty-four-month period of a prior violation (unless some other period is specifically provided by this Code or any ordinance) and for which the person admits responsibility or is determined to be responsible.

Sec. 2-114. Municipal civil infraction action; commencement; enforcement. [Ord. No. 1241, 3-24-1999; Ord. No. 1257, 8-4-1999; 1-17-2018 by Ord. No. 1704]

(a) A municipal civil infraction action may be commenced upon the issuance by an authorized City official of:

(1) A municipal civil infraction notice directing the alleged violator to appear at the City of Holland Municipal Civil Infractions Bureau; or

(2) A municipal civil infraction citation directing the alleged violator to appear in court.

(b) Pursuant to this article, the Department of Public Safety, Police Operations and its officers and any of the other enforcing officers of Chapters 4, 6, 8, 11, 12, 14, 18, 19, 22, 24, 27 and 29 of this Code shall be authorized to enforce municipal civil infractions, and they shall all automatically be deemed "authorized City officials" pursuant to this article.

Sec. 2-115. City of Holland Municipal Civil Infractions Bureau. [Ord. No. 1241, 3-24-1999]

(a) Bureau established. The City hereby establishes the City of Holland Municipal Civil Infractions Bureau ("the Bureau") as authorized under Sections 8396 and 8707(6) of the Act to accept admissions of responsibility for municipal civil infractions in response to municipal civil infraction notices issued and served by authorized City officials, and to collect and retain civil fines and costs as prescribed by this Code or any ordinance.

(b) Location; supervision; employees; rules and regulations. The Bureau shall be located at City hall and shall be under the supervision and control of the City treasurer. The City treasurer, subject to the approval of the City Council, shall adopt rules and regulations for the operation of the Bureau and shall appoint any necessary qualified City employees to administer the Bureau.

(c) Disposition of violations. The Bureau may dispose only of municipal civil infraction violations for which a fine has been scheduled and for which a municipal civil infraction notice (rather than a municipal civil infraction citation) has been issued. The fact that a fine has been scheduled for a particular violation shall not entitle any person to dispose of the violation at the Bureau. Nothing in this chapter shall prevent or restrict the City from issuing a municipal civil infraction citation for any violation or from prosecuting any violation in a court of competent jurisdiction. No person shall be

required to dispose of a municipal civil infraction violation at the Bureau, and any person may have the violation processed before a court of appropriate jurisdiction. The unwillingness of any person to dispose of any violation at the Bureau shall not prejudice the person or in any way diminish the person's rights, privileges, and protection accorded by law.

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

(e) Municipal civil infraction notices; issuance and service. Municipal civil infraction notices shall be issued and served by authorized City officials under the same circumstances and upon the same persons as provided in Section 2-116 of this chapter for municipal civil infraction citations.

(f) Municipal civil infraction notices; contents and form. In addition to any other information required by this Code or other ordinance, the municipal civil infraction notice shall indicate the following:

(1) The time by which the alleged violator must appear at the Bureau;

(2) The methods by which an appearance at the Bureau may be made;

(3) The address and telephone number of the Bureau;

(4) The hours during which the Bureau is open;

(5) The amount of the fine scheduled for the alleged violation; and

(6) The consequences for failure to appear at the Bureau and pay the required fine within the required time.

(g) Municipal civil infraction notices; appearance; payment of fines and costs. An alleged violator who receives a municipal civil infraction notice shall appear at the Bureau and pay the specified fine and costs at or by the time specified for appearance in the municipal civil infraction notice. An appearance may be made by mail, in person, or by representation.

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

Sec. 2-116. Municipal civil infraction citations; issuance and service. [Ord. No. 1241, 3-24-1999]

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

(b) An authorized City official may issue a municipal civil infraction citation to a person if:

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

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

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

(1) Except as provided by Section 2-116(c)(2), an authorized City official shall personally serve a copy of the citation upon the alleged violator.

(2) If the municipal civil infraction action involves the use or occupancy of land, a building, or other structure, a copy of the citation does not need to be personally served upon the alleged violator, but may be served upon an owner or occupant of the land, building, or structure by posting the copy on the land or attaching the copy to the building or structure. In addition, a copy of the citation shall be sent by first-class mail to the owner of the land, building, or structure at the owner's last known address. For the purposes of this article, the owner shall be presumed to be the person or entity designated or listed on the tax rolls maintained by the City for the land, building, or structure.

Sec. 2-117. Municipal civil infraction citations; contents and form. [Ord. No. 1241, 3-24-1999]

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

(b) The time for appearance specified in a municipal civil infraction citation shall be within a reasonable time after the citation is issued.

(c) The place for appearance specified in a municipal civil infraction citation shall be the district court.

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

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

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

(3) Deny responsibility for the municipal civil infraction by doing either of the following:

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

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

(e) The municipal civil infraction citation shall also inform the alleged violator of all of the following:

(1) That if the alleged violator desires to admit responsibility "with explanation" in person or by representation, then the alleged violator must apply to the court in person, by mail, by telephone, or by representation within the time specified for appearance and obtain a scheduled date and time for an appearance.

(2) That if the alleged violator desires to deny responsibility, then the alleged violator must apply to the court in person, by mail, by telephone, or by representation within the time specified for appearance and obtain a scheduled date and time to appear for a hearing, unless a hearing date is specified on the citation.

(3) That a hearing shall be an informal hearing unless a formal hearing is requested by the alleged violator or the City.

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

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

(f) The municipal civil infraction citation shall contain a notice in boldfaced type that the failure of the alleged violator to appear within the time specified in the citation or at the time scheduled for a hearing or appearance is a misdemeanor and will result in entry of a default judgment against the alleged violator in the municipal civil infraction action.

(g) A municipal civil infraction citation for a municipal civil infraction signed by an authorized City official shall be treated as made under oath if the violation alleged in the citation occurred in the presence of the official signing the complaint and if the citation contains the following statement immediately above the date and signature of the official: "I DECLARE UNDER THE PENALTIES OF PERJURY THAT THE STATEMENTS ABOVE ARE TRUE TO THE BEST OF MY INFORMATION, KNOWLEDGE, AND BELIEF."

(h) Each municipal civil infraction citation shall be numbered consecutively and shall be in a form approved by the state court administrator.

(i) The original municipal civil infraction citation shall be filed with the district court. Copies of the citation shall be retained by the City and issued to the alleged violator as provided by Section 8705 of the Act.

Sec. 2-118. Schedule of civil fines established. [Ord. No. 1241, 3-24-1999; Ord. No. 1249, 5-5-1999]

(a) A schedule of civil fines payable to the Bureau for admissions of responsibility by persons served with municipal civil infraction notices is hereby established. The civil fines for the classes of municipal civil infractions are as follows:

Schedule of Civil Fines			
Class	**First Offense**	**Second Repeat Offense Within 24 Months**	**Third and Subsequent Repeat Offenses Within 24 Months**
I	$25	$50	$75
II	$50	$100	$150
III	$100	$250	$500

(b) A copy of this schedule, as amended from time to time, shall be posted at the Bureau.

(c) This schedule shall apply to all municipal civil infractions unless another fine is specifically set forth in this Code as applicable to a particular municipal civil infraction.

(d) A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues, unless otherwise provided.

Sec. 2-119. Failure to appear; misdemeanor; default of civil infraction action. [Ord. No. 1241, 3-24-1999]

The failure of an alleged violator to answer a citation or notice to appear in court for a municipal civil infraction is a misdemeanor, and the failure of an alleged violator to appear as directed by a citation or other notice at a scheduled appearance, at a scheduled informal hearing, or at a scheduled formal hearing, shall result in the court entering a default judgment against the alleged violator in the municipal civil infraction action.

Sec. 2-120. Administrative liability. [Ord. No. 1241, 3-24-1999]

No officer, agent, employee, or member of the City of Holland shall render himself or herself personally liable for any damage which may occur to any person or entity as the result of any act or decision performed in the discharge of his or her duties and responsibilities pursuant to this article.

ARTICLE XVIII

Expense Recovery

Sec. 2-121. Purpose. [Added 11-28-2012 by Ord. No. 1596]

The Holland City Council has determined that it is in the best interests of the City of Holland to provide for the recovery of municipal expense incurred with the arrest and prosecution of certain criminal offenses leading to a conviction as permitted by Act 372 of the Public Acts of 2000, as amended, MCLA § 769.1f et seq. and the general powers of the City pursuant to Section 2.1 of the City Charter.

Sec. 2-122. Definitions. [Added 11-28-2012 by Ord. No. 1596]

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

EXPENSE OF PROSECUTION — The salaries, wages, or other compensation, including, but not limited to, overtime pay of prosecution personnel for time spent investigating and prosecuting the crime or crimes resulting in conviction.

LAW ENFORCEMENT PERSONNEL EXPENSE — Shall mean:

(a) The salaries or wages, including overtime pay, of law enforcement personnel for time spent responding to the incident from which the conviction arose, arresting the person convicted, processing the person after the arrest, preparing reports on the incident, investigating the incident, and collecting and analyzing evidence, including, but not limited to, determining bodily alcohol content and determining the presence of and identifying controlled substances in the blood, breath, or urine.

(b) The salaries, wages, or other compensation, including overtime pay, of Fire Department and emergency medical service personnel, including volunteer firefighters or volunteer emergency medical service personnel, for time spent in responding to and providing firefighting, rescue, and emergency medical services in relation to the incident from which the conviction arose.

(c) The cost of medical supplies lost or expended by Fire Department and emergency medical service personnel, including volunteer firefighters or volunteer emergency medical service personnel, in providing services in relation to the incident from which the conviction arose.

Sec. 2-123. Liability for expenses of arrest and prosecution for certain offenses. [Added 11-28-2012 by Ord. No. 1596; amended 1-17-2018 by Ord. No. 1704]

(a) Upon conviction of any of the following offenses, the person convicted shall reimburse the City of Holland for law enforcement personnel expense as well as the expense of prosecution:

(1) A violation or attempted violation of § 601d, 625(1), (3), (4), (5), (6), or (7), § 625m, or § 626(3) or (4) of the Michigan Vehicle Code, 1949 PA 300, MCLA §§ 257.601d, 257.625, 257.625m, and 257.626, or of a local ordinance substantially corresponding to §§ 601d(1), 625(1), (3), or (6) or §§ 625m or 626

of the Michigan Vehicle Code, 1949 PA 300, MCLA §§ 257.601d, 257.625, 257.625m, and 257.626.

(2) Felonious driving, negligent homicide, manslaughter, or murder, or attempted felonious driving, negligent homicide, manslaughter, or murder, resulting from the operation of a motor vehicle, snowmobile, ORV, aircraft, vessel, or locomotive engine while the person was impaired by or under the influence of intoxicating liquor or a controlled substance, as defined in § 7104 of the Public Health Code, 1978 PA 368, MCLA § 333.7104, or a combination of intoxicating liquor and a controlled substance, or had an unlawful blood alcohol content.

(3) A violation or attempted violation of § 82127 of the Natural Resources and Environmental Protection Act, 1994 PA 451, MCLA § 324.82127.

(4) A violation or attempted violation of § 81134 of the Natural Resources and Environmental Protection Act, 1994 PA 451, MCLA § 324.81134.

(5) A violation or attempted violation of § 185 of the Aeronautics Code of the State of Michigan, 1945 PA 327, MCLA § 259.185.

(6) A violation or attempted violation of § 80176(1), (3), (4), or (5) of the Natural Resources and Environmental Protection Act, 1994 PA 451, MCLA § 324.80176, or a local ordinance substantially corresponding to § 80176(1) or (3) of the Natural Resources and Environmental Protection Act, 1994 PA 451, MCLA § 324.80176.

(7) A violation or attempted violation of § 353 of the Railroad Code of 1993, 1993 PA 354, MCLA § 462.353.

(8) A violation or attempted violation of § 411a(2) of the Michigan Penal Code, 1931 PA 328, MCLA § 750.411a (false report of a crime).

(9) A violation or attempted violation of Section 4(1) of the Public Threat Alert Act, MCLA § 28.674.

Sec. 2-124. Imposition of penalties by court. [Added 11-28-2012 by Ord. No. 1596]

Nothing contained in this article shall prohibit the applicable court of jurisdiction from imposing law enforcement personnel expenses and the expenses of prosecution as part of a sentence following conviction of any of the offenses listed in Section 2-123, as authorized by MCLA § 769.1f; provided, however, that the City of Holland shall not be reimbursed more than once for the expenses incurred in the arrest, processing and prosecution of any individual.

Sec. 2-125. Procedures to determine and recover expenses.

The law enforcement personnel expenses and expenses of prosecution for the offenses listed in Section 2-123 shall be determined and recovered as follows:

(1) Charge against person. Any expenses incurred by the City, including law enforcement personnel expenses and the expenses of prosecution, resulting from an offense listed in

Section 2-123, shall be charged against the individual convicted of that offense. The charge constitutes a debt of that person and is collectible by the City in the same manner as a contractual obligation.

(2) Expense recovery schedule. The Holland City Council may, by resolution, adopt a schedule of expenses specifying the law enforcement personnel expenses and the expense of prosecution for the offenses listed in Section 2-123. Any adopted schedule of expenses shall be available to the public from the Holland City Clerk's Office. The schedule adopted by the City Council may be a flat fee based upon a study of average expense sustained in arresting, investigating, and prosecuting to conviction any of the listed offenses in Section 2-123. In the absence of an adopted schedule for an offense specified under Section 2-123(a), the City may seek its actual expense incurred as a result of the conviction.

(3) Billing. The City of Holland Finance Department shall, within 10 days of receiving itemized expenses, or any part thereof, incurred for the arrest, investigation, and prosecution to conviction of an individual for an offense listed under Section 2-123, submit a bill to that individual for such expenses by first class mail or personal service. The bill shall require full payment in 30 days from the date of mailing or personal service. An administrative late charge as established by resolution adopted by City Council shall be charged for any payment made after the due date.

(4) Failure to pay; procedure to recover expenses. Any individual responsible for expenses under this article who fails to pay those expenses within the time required by this article shall be in default. In case of default, the City of Holland may file a civil suit to recover the total amount of expenses or may contract with a collection agency to recover such expenses on behalf of the City. Fees and costs incurred to collect such charges shall be included in the amount to be paid.

Sec. 2-126. Conflict with criminal laws; coordination of collection efforts. [Added 11-28-2012 by Ord. No. 1596]

Nothing within this ordinance shall be construed to conflict, contravene, enlarge or reduce any criminal liability or responsibility, including fines imposed by a judge for any criminal offense under Michigan law. If recovery of law enforcement personnel expenses and the expense of prosecution are required as part of a criminal sentence, the City of Holland Finance Department shall work with the applicable court of jurisdiction to coordinate recovery of such expenses.

Sec. 2-127. Severability. [Added 11-28-2012 by Ord. No. 1596]

The phrases, sentences, sections, and provisions of this article are severable; if any portion of this article is found to be unconstitutional or otherwise unenforceable, the remaining sections of the article shall remain in full force and effect.

Sec. 2-128. Repeal of conflicting ordinances. [Added 11-28-2012 by Ord. No. 1596]

All other ordinances, parts of ordinances or amendments to such ordinances which conflict with this article are repealed to the extent of such conflict.

ARTICLE XIX

Civic Center Place

Sec. 2-129. Civic Center Place defined. [Added 11-1-2017 by Ord. No. 1699]

The Civic Center Place shall consist of:

(a) The interior and exterior of the Civic Center building; and

(b) The City-owned parking areas and exterior grounds between 7th Street and 9th Street and Maple and Pine Avenues, including the area used for the Holland Farmers' Market.

Sec. 2-130. Creation of Board; composition; appointment, terms, etc., of members; filling vacancies, removal. [Added 11-1-2017 by Ord. No. 1699]

(a) There is hereby created a Civic Center Place Board, to be composed of seven members plus one ex-officio (nonvoting) member from the City Council. One member shall be a member of the Downtown Development Authority Board and one other member shall be a member of the Principal Shopping District Board. At all times, the Board shall include at least four City residents.

(b) The members shall be appointed by the Mayor with the advice and consent of the City Council. The Mayor, with the advice and consent of the City Council, shall appoint the ex-officio member each year during June to serve for one year starting that following July 1.

(c) The initial appointments shall establish a system of staggered terms with two members appointed for terms ending June 30, 2018; two members appointed for terms ending June 30, 2019; and three members appointed for terms ending June 30, 2020. After the initial terms, members of the Board shall be appointed for three-year terms, starting on July 1 and ending on June 30.

(d) A vacancy on the Civic Center Place Board shall be filled for the balance of the vacated term by appointment by the Mayor with the advice and consent of the City Council.

(e) The City Council may remove a member of the Civic Center Place Board for misfeasance, malfeasance, or nonfeasance in office, as determined in the sole discretion of the City Council, after a public hearing.

(f) The City Manager shall appoint a Civic Center Place staff liaison who shall report to the City Manager concerning the activities of the Civic Center Place Board.

Sec. 2-131. Duties and functions. [Added 11-1-2017 by Ord. No. 1699]

(a) The Civic Center Place Board shall:

(1) Oversee all management and operations of the Civic Center Place in accordance with the Holland City Code so as to provide a place for meetings, events and activities for the community in a financially sustainable manner.

(2) Establish short- and long-term goals for the use, operation and maintenance of the Civic Center Place.

(3) Either (i) solicit proposals from, interview and recommend to the City Council the engagement of a professional event and facilities management organization to manage the Civic Center Place facilities, or (ii) recommend to Council an alternate facilities management structure. The professional event and facilities management organization shall be engaged by written contract as an independent contractor.

(4) Establish a fee schedule and policies for the use, booking, promotion, operation, repair and maintenance of the Civic Center Place, subject to approval by Council. The policies and fee schedule shall balance the City's desire to make the facility available for use by residents of the City and other local persons, organization and groups with the need or demand to use the Civic Center Place for special events, conventions or other activities.

(5) Work with the management organization to carry out the policies and goals of the Civic Center Place.

(6) Provide space available for the Holland Farmers' Market and coordinate activities and efforts with the Farmers' Market market-master.

(7) Coordinate activities and efforts with the Downtown Development Board and Principal Shopping District.

(8) Consult with the City's insurance agent of record and recommend to the City Council any special insurance needs to protect Civic Center Place and to protect the City from liabilities.

(9) Make investigations and studies and conduct research to gather statistics or data which will aid in operation and management of the Civic Center Place.

(10) Advise and consult with the City Council on matters within the scope of its activity.

(11) Advise and recommend to the Mayor persons to appoint to the Board.

(12) Apply for grants or other funding for the Civic Center Place, subject to approval by the City Council.

(b) Notwithstanding the above, all legislative, budgetary and contracting authority and functions shall remain vested in the Council, except as provided in a contract with a professional event and facilities management organization.

Sec. 2-132. Budget, purchasing. [Added 11-1-2017 by Ord. No. 1699]

(a) The Civic Center Place Board shall annually prepare and submit a budget for the Civic Center Place to the City Manager showing anticipated revenues and expenditures for the Civic Center Place for the next fiscal year. The budget shall be submitted to the City Manager not later than February 15 of each year. The City Council shall adopt or revise the proposed budget and incorporate it into the City's annual budget.

(b) The Civic Center Place Board shall consult with the City's Finance Director and finance staff so that the budget is consistent in format with the rest of the City's budget and shall comply with the legal requirements of the City under the City's Charter and state and federal law.

(c) All Civic Center Place revenue and expenditures shall be subject to the requirements imposed by the City's Charter, except that the internal budget, revenue and expenditures of a professional event and facilities management organization shall be under the control of that organization. The professional event and facilities management organization shall not have the power to bind the City by contract or otherwise incur liabilities or debts of the City.

(d) Notwithstanding Sections 2-41 through 2-45 of the Holland City Code, the Civic Center Place Board may authorize and make purchases of supplies, materials, equipment and contractual services, but only if the purchases are within its budget appropriations. The terms "supplies," "materials" and "equipment" shall be construed to mean any and all articles or items which are reasonably necessary for the Civic Center Place. The term "contractual services" shall mean, but not limited to, utility services and the rental, repair or maintenance of equipment, machinery and other City-owned personal or real property. All purchases shall comply with the quotation and bidding requirements of Section 2-47 et seq.

(e) All purchases under Subsection (d) shall be by purchase orders on forms approved by the City's Finance Director. Copies of the purchase orders shall be immediately provided to the City's finance office.

(f) All purchases or contracts, other than those allowed under Subsection (d), shall be by contracts approved by the City Council, signed by the Mayor and Clerk, and approved as to form by the City Attorney.

Sec. 2-133. Meetings, place and recordkeeping. [Added 11-1-2017 by Ord. No. 1699]

(a) The Civic Center Place Board shall determine its meeting schedule. All meetings shall be held in compliance with the Open Meetings Act, MCLA 15.261 et seq., as amended from time to time.

(b) The Civic Center Place Board shall meet at the Civic Center when it is available or, when not available, at City Hall or such other public place designated by the Board.

(c) All documents, meeting minutes and other records of the Civic Center Place Board shall be and remain records of the City and shall be kept by the City Clerk in accordance with the City's Charter and shall be subject to the document retention and destruction policies and requirements of the City.

(d) All documents, meeting minutes and other records of the Civic Center Place Board shall be subject to the Michigan Freedom of Information Act, MCLA § 15.231 et seq., as amended from time to time.

(e) The Civic Center Place Board may adopt (and periodically review, update and amend) bylaws to establish its rules of organization and procedure appropriate to the performance of its duties, subject to approval by Council.

Chapter 3

AMUSEMENTS

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ARTICLE I
In General

Sec. 3-1. Applicability of chapter. [Code 1955, § 7-3.1; Ord. No. 1154, 10-18-1995; amended 1-17-2018 by Ord. No. 1705]

The licensing provisions of this chapter shall not apply to any private dance, or to any dance, show, concert or other amusement or entertainment conducted under the supervision of Hope College, any public or parochial school, any church, or the City, or organizations under the control or direction of any of them, the Young Men's Christian Association, the Young Women's Christian Association, any fraternal beneficiary society when such amusement is open to members only, and not open to the public or any charitable organization as defined by IRC § 501(c)(3); nor shall the provisions of this chapter apply to religious services of any kind. This section shall not relieve any person or organization from obtaining a parade permit as provided in Section 18-20.

Sec. 3-2. Tulip Time entertainment. [Code 1955, § 7-3.7]

No person or organization shall present any theatrical exhibition, show, entertainment or amusement for which money or other compensation is in any manner demanded or received during Tulip Time week of any year, without first securing a license from the City Council for such presentation; provided, however, that persons licensed under Section 3-23 shall be exempt from the provisions of this section. If Council determines that the proposed activity: (a) detracts from, interferes with or is detrimental to planned Tulip Time activities; (b) is not in keeping with the theme of Tulip Time; or (c) would be in violation of any provisions of this Code or of state or federal law, such application for a license shall be denied, otherwise it shall be granted.

Sec. 3-3. (Reserved)

Repealed by Ordinance No. 770.

ARTICLE II

Bowling, Pool and Billiards

Sec. 3-4. License—required. [Code 1955, § 7-3.2]

No person shall engage in operating, running, keeping or maintaining any billiard or pool table, or any bowling center, for the use of the public, with or without charge for the use thereof, within the City, without first obtaining a license therefor in the manner provided in the article and in Chapter 17.

Sec. 3-5. Eligibility. [Code 1955, § 7-3.2]

No license shall be granted under the provisions of this article to any natural person who is, or to any corporation whose resident manager or operator is, under 21 years of age; or who has not resided in the state for a period of one year immediately prior to the application for such license, or who has been convicted of any crime involving moral turpitude, nor whose general reputation in any community in which he or she has resided during the five years next preceding such application is that of a gambler, cheat or promoter of vice and immorality. No license shall be granted hereunder to any corporation which is not authorized to do business in this state.

Sec. 3-6. Application; special provisions applicable upon change in management of corporation. [Code 1955, § 7-3.2]

The application for a license under this article shall state the applicant's age, correct name, post office address, and residence, the address of the premises to be licensed, the number of tables or alleys the applicant intends to maintain, the length of time he or she has resided within the City, and his or her place of residence for the past five years immediately before the time of such application, and whether or not he or she has ever been convicted of any crime involving moral turpitude. The applicant shall give reference in such application to at least five reputable citizens of the community wherein he or she has last resided within this state, or if he or she had not previously resided in this state, of the community wherein he or she has last resided, and the written recommendation of at least two such reputable citizens of such community respecting his or her moral character. Application on behalf of a corporation shall be made by the agent of such corporation who will have principal charge of the establishment to be licensed. Such agent shall furnish all facts concerning himself which are required of an individual applicant. In case the agent managing any licensed establishment for a corporation shall be replaced, the license for such establishment shall be revoked, unless the Council shall, by resolution, continue such license. In case such license is not continued as hereinbefore provided, a new application shall be filed and a new license shall be issued before the business or other activity, the conduct of which is authorized by such license, is thereafter operated. In case of a partnership, each active partner in such business shall join in the application for such license and each shall furnish all of the information and recommendations required of an individual applicant.

Sec. 3-7. (Reserved)[1]

Sec. 3-8. Issuance by resolution only. [Code 1955, § 7-3.2]

No license shall be issued under this article except by resolution of the Council.

Sec. 3-9. Hours of operation. [Code 1955, § 7-3.2; Ord. No. 771; Ord. No. 1155, 10-18-1995]

No person licensed under the provisions of this article, or his or her employee, agent, or servant, shall keep open for business between the hours of 2:30 a.m. and 12:00 noon on any Sunday and from 2:30 a.m. to 7:00 a.m. on any other day. The licensee may request an extension of the hours of operation to allow the licensee to sponsor a tournament or other special event on the premises. Said request shall be presented in writing to the Chief of Police for approval at least one month in advance of the scheduled event. If approval is denied, then the licensee may present his or her request to City Council for approval by a majority vote.

Sec. 3-10. Gambling. [Code 1955, § 7-3.2; Ord. No. 1155, 10-18-1995]

No person licensed under the provisions of this article, or his or her employee, agent or servant, shall permit or allow any one or more persons on the licensed premises, including bowling centers, to engage in any game of cards, dice, gambling or other game of chance, or permit any person to play any game on which bets or wagers are laid, or permit any person to lay any wager or bet on the outcome or result of any game.

Sec. 3-11. Minors in pool or billiard halls or bowling centers. [Code 1955, § 7-3.2; Ord. No. 1155, 10-18-1995; Ord. No. 1190, 4-2-1997]

No person licensed under the provisions of this article, or his or her employee, agent or servant, shall permit any minor under the age of 12 years or under to be or remain in any pool or billiard hall, or any bowling center, after the hour of 9:30 p.m., unless such minor is accompanied by a parent or guardian, or permit any minor the age of, or between the ages of 13 and 16 years to be or remain in any pool or billiard hall, or any bowling center, after the hour of 11:30 p.m., unless such minor is accompanied by a parent or guardian.

ARTICLE III
Carnivals, Circuses, Circus Parades, Etc.

Sec. 3-12. License—required; permitting use of property for unlicensed exhibition, etc. [Code 1955, § 7-3.3]

No person shall exhibit or conduct any carnival or circus, or any menagerie, or side show connected therewith, for which money or other reward is in any manner demanded or

1. **Editor's Note: Former Sec. 3-7, which pertained to bond prerequisite to issuance of license, adopted as § 7-3.2 of the 1955 Code, was repealed 1-3-1990 by Ord. No. 993.**

received, or any circus parade, without first having obtained a license therefor, as provided in this article and in Chapter 17; and no person shall knowingly allow or permit any building, yard or other place in the City, owned or possessed by him or her, to be used for the accommodation of any such exhibition or performance, unless a license therefor, obtained as herein provided, shall have first been shown to such owner or possessor.

Sec. 3-13. Application. [Code 1955, § 7-3.3; Ord. No. 994, 1-3-1990]

The application for the license required under Section 3-12 shall set forth the object and length of time for which, and the place where such license is desired to be used, a diagram of the seating plan to be used, showing exits and aisles, and in case the applicant is a corporation such application shall set forth the names of all of the officers of such corporation.

Sec. 3-14. Insurance prerequisite to issuance. [Code 1955, § 7-3.3]

Before any license required by this article is issued, the applicant therefor shall also file with the City Clerk evidence, which is satisfactory to the City Clerk, that he or she has obtained and carries public liability and property damage insurance which will be in force through the life of the license, under which the applicant and the City are coinsurees with respect to any one or more personal injuries or any property damage arising out of the doing of any act or arising out of any actionable negligence in the exercise of any license or permit granted to him or her under this article, whether such act or negligence be by the licensee or by any other person who may be performing any act under or in accordance with the authority granted by such license or permit.

ARTICLE IV
Dance Halls and Dancing Academies

Sec. 3-15. License—required. [Code 1955, § 7-3.4]

No person shall, for hire, charge or reward, keep or maintain a public dance hall or dancing academy in the City without first having obtained a license therefor in the manner provided in this article and in Chapter 17.

Sec. 3-16. Application; requirements as to location of premises and persons in charge. [Code 1955, § 7-3.4]

The application for the license required by this article shall specify the location and describe completely the interior arrangement and entrances of the place in which he or she intends to keep the same, which location, unless approved by the Council, shall not be in any place where intoxicating liquors are furnished or consumed. Such application shall further specify the name of the person who is to be in charge of any such dancing hall, dancing academy or place where dancing shall be permitted and shall contain an agreement on the part of the applicant that no other persons than those so named shall, at any time, be in charge of such dancing hall, dancing academy or place where public dancing shall be permitted.

Sec. 3-17. (Reserved)[2]

Sec. 3-18. Permitting improper, indecent, etc., conduct or presence of intoxicating persons. [Code 1955, § 7-3.4]

No licensee under this article or his or her assistant or agent shall permit any improper, immoral or indecent conduct in any such licensed place, or permit any intoxicated person to enter or remain in any such licensed place.

Sec. 3-19. Booths, etc. [Code 1955, § 7-3.4; Ord. No. 426, § 1]

No booths or space or part of any dance hall, public dancing academy or place where public dancing is permitted shall be curtained, screened or partitioned from the general assembly room, except as may be expressly permitted by the terms of the particular license.

ARTICLE V
(Reserved)[3]

Sec. 3-20. through Sec. 3-22. (Reserved)

ARTICLE VI
Theatres, Shows, etc.

Sec. 3-23. License—required. [Code 1955, § 7-3.6]

No person shall operate any theatre, motion picture house, opera house or concert hall in the City without having first obtained a license therefor in accordance with the provisions of this article and Chapter 17.

Sec. 3-24. Inspection and certification of premises by Fire Chief prerequisite to issuance and renewal. [Code 1955, § 7-3.6]

No license required by this article shall be issued or renewed until the premises for which such license is sought has been inspected by the Fire Chief, and has been certified by him or her as being in compliance with this Code and with state law.

Sec. 3-25. Special requirements for person not licensed under article. [Code 1955, § 7-3.6; Ord. No. 1069, 10-7-1992]

No person or organization, other than those licensed under this article, shall present any theatrical exhibition, show, entertainment or amusement for compensation without having

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2. **Editor's Note: Former Sec. 3-17, which pertained to bond requirements, adopted as § 7-3.4 of the 1955 Code, was repealed 1-3-1990 by Ord. No. 993.**

3. **Editor's Note: Former Art. V, which pertained to shooting galleries, adopted as § 7-3.5 of the 1955 Code, as amended 10-7-1992 by Ord. No. 1069, was repealed 10-18-1995 by Ord. No. 1156.**

obtained a license therefor as provided in Chapter 17 and having paid the fee as established by a resolution adopted by City Council.

ARTICLE VII
Arcades and Mechanical Amusement Devices

Sec. 3-26. Definitions. [Ord. No. 840]

For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

ARCADE — Any place, business, premises or establishment wherein the total number of amusement devices shall occupy in excess of 20% of the usable floor space of the licensed premises. For the purposes of this definition, "usable floor space" shall not include areas not otherwise available to the general public. For the purposes of this definition, the area occupied by amusement devices shall include the walkways and areas of separation between amusement devices required for the walking and safety of patrons.

AMUSEMENT DEVICE — Each machine, device or game, operated upon the insertion of a coin, token or slug, for the use or intended use of the public, which operates or may be operated as a game or contest of skill or amusement of any kind, nature or description and which returns no automatic payoff device for the return of money, tokens or slugs.

LICENSEE — Any person requesting a license pursuant to this article.

OPERATOR — Any person, proprietor, lessee, manager or employee who is in charge of or has control over the operation of any amusement device or arcade.

OWNER — Any person who owns, has title to or has control over the operation of any amusement device or arcade.

Sec. 3-27. Article not to permit licensing of slot machines, coin-operated gambling devices or obscene exhibits. [Ord. No. 840; amended 1-17-2018 by Ord. No. 1705]

Nothing contained in this article shall be construed to permit the issuance of a license for the operation of any slot machine or to permit the use of any coin-operated machine or device for gambling purposes, wherein money, trade tokens or slugs are returned as consideration for the operation of a game of chance, or to permit any amusement device which shall exhibit any film, picture or material which is obscene pursuant to MCLA § 752.361 et seq.

Sec. 3-28. Arcade license generally. [Ord. No. 840; Ord. No. 994, 1-3-1990; amended 1-17-2018 by Ord. No. 1705]

No person shall engage in the operating, running, keeping or maintaining of an arcade without first obtaining license therefor. No arcade shall be established, maintained or conducted in the City without a public hearing by the City Council according to the terms of this section.

(a) A proposed licensee shall submit an application to the City Clerk pursuant to Chapter 17 of this Code and shall comply with the following requirements:

(1) The proposed licensee, owner or operator, if the licensee is a corporation, shall be 18 years of age or older.

(2) The proposed licensee, owner or operator, if the licensee is a corporation, shall not have been convicted of a felony or a misdemeanor involving dishonesty or moral turpitude for a period of eight years prior to the application for a license.

(3) The proposed licensee shall pay to the City Treasurer the fee established for the issuance of a gaming device license as established by resolution of the City Council.

(b) In addition to the requirements of Subsection (a) of this section, the application of the proposed licensee shall specify the following:

(1) The proposed hours of operation anticipated for the arcade.

(2) The number of amusement devices intended for use or intended use of the public.

(3) The trade name, manufacturer, general description of the amusement and the serial number of each amusement device.

(4) The number and identity of employees, operators and supervisory personnel available to monitor the arcade operation.

(5) A list of any anticipated restrictions to be implemented by the proposed licensee for the operation of the arcade, which will be prominently displayed upon the granting of the license.

(6) A diagram with dimensions of the proposed licensed premises, showing the location of each amusement device and the anticipated exits from the premises.

(7) The location of any racks or other devices for the parking and storing of bicycles.

(c) Upon receipt of the application for an arcade license, the City Clerk shall mail notice to all property owners located within 300 feet of the proposed licensed premises, indicating the name of the proposed licensee, the location of the business premises and the date and time of public hearing before Council. Notice shall be mailed no later than 10 days prior to the public hearing.

(d) Prior to the public hearing, the business premises shall be inspected by the Department of Public Safety and Department of Community and Neighborhood Services. A written report shall be submitted to the City Council by each department, based upon the following criteria:

(1) The Department of Public Safety shall make an investigation as to the criminal record and character of the proposed licensee and, if the applicant is a corporation, to the principal shareholders and operators, including all supervisory personnel, of the proposed licensee. The Department of Public Safety shall further investigate the type and nature of the amusement devices proposed to be used in the arcade. The Department of Public Safety shall further report on the availability of private property, adjacent to and adjoining the premises, for the storage of bicycles and shall review the anticipated congestion of travel for pedestrians within the public right-of-way.

(2) The Department of Public Safety, in connection with the Electrical Inspector of the City, shall make an investigation to determine whether the amusement devices and licensed premises comply with the provisions of the codes of the City relating to electrical installation and operation and whether the proposed operation will constitute a nuisance. The Department of Public Safety shall further report on the levels of occupancy of the premises for safe fire exiting to the appropriate exits.

(3) The Department of Community and Neighborhood Services shall make an investigation to determine whether the proposed licensed premises complies with all building, zoning, plumbing and mechanical codes of the City.

(e) The City Council shall conduct the public hearing in accordance with the rules and regulations of the Council. Upon conclusion of the public hearing, the Council shall grant or deny the license for the operation of an arcade.

(1) The Council may deny a license if any of the following are found to exist:

a. If the proposed premises are not suitable and proper for such operation to be conducted, as such relates to the public health, safety and general welfare of the City.

b. If a preponderance of evidence has been presented by adjacent and adjoining properties, by appraisal or other expert opinion submitted in writing within five days before the public hearing, indicating that the proposed operation will: constitute or be likely to constitute a nuisance in fact; constitute substantial damage to the value or proprietary interest of businesses located adjacent to or adjoining a proposed licensed premises; and/or cause substantial interference in the movement of pedestrian traffic in the public right-of-way, a copy of such written evidence shall be submitted to the proposed licensee not less than three days prior to the public hearing for response and rebuttal.

c. If a violation is determined to exist regarding any City codes, ordinances or statutes, and the Council determines that corrective action cannot be made within a date of compliance established by Council.

(2) In the event an arcade license is denied, the Council shall direct the City Attorney to prepare findings of fact and conclusion of law relating to the denial of the license, which shall be reviewed and approved by the Council at its next regularly scheduled meeting.

(f) A license which is approved by the Council shall be subject to the following terms, conditions and limitations:

(1) Compliance with the representations of the licensee as set forth in the license application and at the public hearing before the Council.

(2) Enforcement of the house rules and rules of conduct set forth in the license application.

(3) Compliance with the level of occupancy determined by the Council pursuant to the report submitted by the Department of Public Safety. In the event the arcade

operator shall modify or amend any of the information set forth in the license application, the licensee shall notify the Chief of Police within 10 days of such amendment or modification, in writing.

Sec. 3-29. Operation of business generally. [Ord. No. 840; Ord. No. 1157, 10-18-1995; Ord. No. 1190, 4-2-1997]

For the purposes of this section, any licensee who operates, runs, keeps or maintains an arcade shall comply with the additional requirements of this section.

(a) No licensee, or his or her employer, agent or servant, shall permit or allow the consumption or possession of alcoholic beverages, unless licensed by the Liquor Control Commission of the state, or the sale, possession or use of controlled substances on the licensed premises.

(b) No licensee, or his or her employee, agent, or servant, shall permit, allow or continue to permit or allow any person on any licensed premises who is violating any provision of Chapter 20 of this Code.

(c) No licensee, or his or her employee, agent or servant, shall permit or allow any one or more persons on the licensed premises to engage in any game of cards, dice gambling or other game of chance, or permit any person to play any game on which bets or wagers are laid, or permit any person to lay any wager or bet on the outcome or result of any game.

(d) No agent, servant, employee, manager or operator of a licensee shall have been convicted of a felony or misdemeanor involving moral turpitude for a period of eight years prior to the application for a license.

(e) A licensee shall post in a conspicuous place in the licensed premises the hours of operation and rules of conduct for the business.

(f) No person licensed under the provisions of this article, or his or her employee, agent or servant, shall permit any minor under the age of 12 years or under to be or remain in any arcade after the hour of 9:30 p.m., unless such minor is accompanied by a parent or guardian, or permit any minor the age of, or between the ages of 13 and 16 years to be or remain in any arcade after the hour of 11:30 p.m., unless such minor is accompanied by a parent or guardian.

(g) A licensee, and his or her employee, agent or servant, shall require that bicycles and nonmotorized vehicles of patrons and customers be stored and parked in an orderly manner to permit the safe and unobstructed flow of pedestrian traffic, and if bicycle racks are installed in the immediate or adjacent right-of-way of the licensed business, an arcade operator shall require all patrons and customers to park bicycles and nonmotorized vehicles in the bicycle racks.

Sec. 3-30. Inspections by Police and Fire Departments. [Ord. No. 840]

The Police and Fire Departments of the City and the officers thereof, as a condition of the issuance of the licenses contemplated by this article, shall have access at all times to all

arcade premises operated within the City, and it shall be the duty of those Departments to periodically investigate and inspect all premises in which arcades are operated, in order to assure that the devices are being operated in accordance with the provisions of this article.

Sec. 3-31. Devices to be kept in plain view of inspectors. [Ord. No. 840]

Any amusement device, as defined in Section 3-26, shall at all times be kept in plain view of any person authorized pursuant to this article to cause or make inspections of the business premises.

Sec. 3-32. Suspension, revocation and denial of renewal of arcade licenses. [Ord. No. 840]

A license issued pursuant to this article may be suspended or revoked, or its renewal may be denied, for the causes and in the manner set forth in Chapter 17 of this Code. The Chief of Police is the designated enforcement officer for the purposes of this article or any license suspension, revocation or refusal procedure under Chapter 17.

Sec. 3-33. Existing businesses—Generally; license renewal generally. [Ord. No. 840]

Businesses which have been lawfully operating and existing prior to April 25, 1984, or businesses which have been issued an arcade license shall be required to annually comply with the provisions of this article, except for the provisions of this article requiring a preoccupancy license hearing as set forth in Section 3-28 et seq. Notwithstanding the foregoing, an arcade licensee shall submit the information and application required pursuant to Section 3-28.

The application for a license or its renewal shall be submitted for departmental review pursuant to the criteria set forth in Subsection (d) of Section 3-28. If the application complies with the criteria of Section 3-28, the license shall be referred to Council for approval without the preoccupancy hearing.

Sec. 3-34. Dates of license application and payment of fees. [Ord. No. 840; Ord. No. 1069, 10-7-1992]

Businesses which have been operating and existing lawfully prior to April 25, 1984, shall apply for the license mandated by this article and shall pay the license fees as set forth and prorated pursuant to resolution adopted by City Council within 30 days of April 25, 1984.

Sec. 3-35. Severability. [Ord. No. 840]

Should any section, clause or phrase of this article be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of this article as a whole, or any part thereof other than the part so declared to be invalid.

Chapter 3.1

(RESERVED)

[Former Chapter 3.1, Alcoholic Beverages, specifically Sections 3.1-1 through 3.1-7, which pertained to sale of alcoholic liquor on Sundays, adopted 2-21-2007 by Ord. No. 1467, was repealed 11-19-2008 by Ord. No. 1523.]

Chapter 4

ANIMALS AND FOWL

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ARTICLE I
In General

Sec. 4-1. Definitions. [Ord. No. 804]

For the purposes of this chapter, the following words and phrases are defined and shall be construed as hereinafter set out unless it shall be apparent for the context that a different meaning is intended. Words in singular form can be construed as plural.

ANIMAL — Any animal, poultry, bird, reptile, fish or any other creature.

ANIMAL CONTROL OFFICER — Any person employed by the City whose duty it is to enforce the terms of this chapter, or any police officer, reserve police officer or any other person employed by the City and empowered by state statute to enforce municipal ordinances.

ANIMAL SHELTER — Any animal shelter maintained by the City, the Ottawa County Humane Society or the county.

AT LARGE — Off the premises of the owner and not under the control of the owner or a member of his or her immediate family by leash, cord, chain or otherwise.

DOG — Any dog of either sex, of any age.

IMPOUNDED — Having been received into the custody of an animal shelter or into custody of any authorized agent or representative thereof.

KENNEL — Any lot, building, structure or premises whereon or wherein more than two dogs are kept or maintained for any purpose.

OWNER — Any person having a right or property in a dog or who harbors a dog or has a dog in his or her care or who permits a dog to remain on or about the property or premises occupied by such person.

POLICE OFFICER — Any person employed by the City, the state or any municipality, county or township, and whose duty it is to preserve the peace, to make arrests or to enforce the law.

Sec. 4-2. Appointment and duties of Animal Control Officer. [Ord. No. 804; Ord. No. 1242, 3-24-1999]

(a) The City Manager or the designated department head shall appoint a suitable person as the Animal Control Officer of the City. The City shall provide minimum employment standards relative to the recruitment, selection and appointment of Animal Control Officers, which standards shall at least equal the minimum standards set forth by the laws of the state.

(b) In the performance of his or her duties, the Animal Control Officer shall have the power, authority and the immunity of a public officer and employee to issue citations and to make arrests without a warrant whenever he or she has reasonable cause to believe that the person to be arrested has committed in the Animal Control Officer's presence any act which is a misdemeanor violation of this chapter, or a felony or misdemeanor violation of state law relating to the care, treatment and impounding of animals.

(c) The Animal Control Officer shall have charge and be responsible for any animal shelter maintained in the City and shall have charge and be responsible for the safe keeping, sheltering, caring for, feeding and watering of all animals impounded in such animal shelter. The Animal Control Officer may seize and impound any domestic animal running at large and such animal may be released to the owner upon payment of the same fees specified for dogs as set forth in this chapter.

Sec. 4-3. Keeping or housing—Generally. [Ord. No. 804; Ord. No. 823; 8-21-2013 by Ord. No. 1614; 4-2-2014 by Ord. No. 1624; 6-17-2015 by Ord. No. 1653; 10-17-2018 by Ord. No. 1747]

No person shall keep or house any animal or honey bees within the City except dogs, cats, minipigs (120 pounds or less), canaries or other animals or birds which are commonly kept and housed inside dwellings as domestic, household pets, except that:

(1) No person shall keep or house more than:

a. Two dogs which have attained four months of age per residential dwelling unit.

b. Five cats which have attained four months of age per residential dwelling unit.

c. Two minipigs per residence.

d. A combined total number of more than five dogs, cats and minipigs which have attained four months of age per residential dwelling unit.

(2) Agricultural animals. A person shall be permitted to keep or house cows, horses, mules or fowl if such animals shall be kept or housed not less than 125 feet from any dwelling of any person other than the one upon whose premises they are kept or housed and such animals or fowl are kept or housed on premises used or occupied as one parcel of land regularly devoted to, or zoned for, agricultural purposes and consisting of not less than four acres.

(3) Honeybees. Other than in the AG Agriculture District, no person shall keep honeybees unless he or she obtains a honeybee permit and complies with the following conditions:

a. The maximum number of hives permitted per property shall be as follows:

1. Two hives for properties with a lot that is not greater than 11,000 square feet in area.

2. Four hives for properties with a lot area of greater than 11,000 square feet and not greater than 22,000 square feet in area.

3. Five hives for properties with a lot area of greater than 22,000 square feet and not greater than 43,450 square feet in area.

4. Eight hives for properties with a lot area of greater than 43,450 square feet (one acre) in area.

5. One additional hive is allowed for each additional acre of land.

b. Each hive shall have a maximum size of 20 cubic feet.

c. A flyway barrier at least six feet in height shall shield any part of a property line that is within 25 feet of a hive. The flyway barrier shall consist of a wall, fence, dense vegetation or a combination thereof, and it shall be positioned to transect both legs of a triangle extending from an apex at the hive to each end point of the property line to be shielded.

d. A constant supply of water shall be provided for all hives.

e. All hives shall be located at least 25 feet from any dwelling on a neighboring property, at least five feet from any property line, and where a public sidewalk is present, at least 10 feet distant from it.

f. The applicant shall pay the fee required by the fee resolution periodically adopted by the City Council.

g. Applications for original and renewal honeybee permits shall be submitted to, and permits shall be issued by, the Department of Community and Neighborhood Services. Permits shall be issued within one week if the applicant demonstrates that it meets all conditions of this section.

h. An initial honeybee permit shall be valid for three years from the date of issuance. A renewal honeybee permit shall be valid for two years from the date of issuance.

i. Applications for a honeybee permit, renewals, suspensions and revocations shall be handled in the manner provided in Chapter 17 for licenses.

(4) Pet fowl. A person shall be permitted to keep and house one domesticated pet chicken (hens only), duck, goose, or similar fowl in a pen or confinement coop which is at least 25 feet from any neighboring dwelling unit. Further, a maximum of 10 chicks under the age of five weeks are permitted.

(5) Chickens. Other than in the AG Agriculture District, no person shall keep chickens unless he or she obtains a permit and complies with the following conditions:

a. The keeping of chickens shall be done on a noncommercial basis while limiting and mitigating any potential adverse impacts on surrounding properties. The keeping of chickens shall be exclusively used by the people occupying the property as a locally grown food source for the consumption of eggs or meat.

b. A maximum of four chickens may be kept per parcel if the parcel is 1/2 acre in size or less, five chickens if the parcel is 1/2 to one acre in size; and six chickens if the parcel is over one acre in size. Roosters are prohibited.

c. The outdoor slaughtering of chickens is prohibited.

d. Chickens shall be provided with a covered enclosure and must be kept in the covered enclosure or an adjoining fenced enclosure at all times. Chickens may be allowed to roam outside of the covered or fenced enclosure if within a fully fenced side and/or rear yard and if supervised by a person in the immediate vicinity of the chickens.

e. All covered enclosures or fenced enclosures shall be located in the rear yard, shall be no closer than five feet to any property line of an adjacent property, and shall be located no closer than 25 feet to any residential structure on an adjacent property.

f. The total square footage of any covered enclosure and fenced enclosure shall not exceed 80 square feet and shall be a maximum of eight feet in height.

g. All covered enclosures shall be constructed in such a way as to prevent rats, mice, or other rodents from being harbored underneath or within the walls of the enclosure. The enclosure shall be constructed in a workmanlike manner. The coop and pen must be completely enclosed with a top and/or cover.

h. All feed and other items associated with the keeping of chickens likely to attract rats, mice, or other rodents or vermin shall be secured and protected in sealed containers.

i. Egg-laying chickens shall be kept in compliance with the Michigan Department of Agriculture Generally Accepted Agricultural and Management Practices for the Care of Farm Animals, as amended, except as otherwise provided in this section.

j. Applications for original and renewal permits shall be submitted to, and permits shall be issued by, the Department of Community and Neighborhood Services. Permits shall be issued within one week if the applicant demonstrates that it meets all conditions of this section.

k. The applicant shall pay the fee required by the fee resolution periodically adopted by the City Council.

l. An initial permit shall be valid for three years from the date of issuance. A renewal permit shall be valid for two years from the date of issuance.

m. Applications for a permit, renewals, suspensions and revocations shall be handled in the manner provided in Chapter 17 for licenses.

Sec. 4-4. Prohibitions. [Ord. No. 804; amended 1-17-2018 by Ord. No. 1706]

(a) It shall be unlawful for any owner to keep, harbor or have charge of any animal, whether licensed or unlicensed, when any one or more of the following facts exist:

(1) The animal has an ugly or vicious disposition, shows vicious habits and has molested any person or animal lawfully in or upon any public street or place. For purposes of this section an animal who has bitten or attacked another person shall be rebuttably presumed to be vicious;

(2) Such animal has attacked or bitten any person or animal, or has destroyed any property or domestic animal;

(3) The animal, by destruction of property or trespassing upon the property of others, has become a nuisance in the vicinity where kept;

(4) Any dog, by loud barking, howling or yelping, has become a nuisance in the vicinity where kept;

(5) The animal appears to be suffering from rabies or affected by hydrophobia, mange or other infectious or dangerous disease; or

(6) The animal has been deprived of proper food, drink, shelter, veterinary care or protection from the weather by a structure consisting of at least three sides and a roof, or has been cruelly beaten, overworked, tortured, tormented or mutilated.

(b) If any one or more of the above facts shall exist, it shall be the duty of the owner to forthwith deliver such animal to the Animal Control Officer or police officer on demand. The Animal Control Officer may issue an ordinance violation for a violation of this chapter or a complaint may be filed in the district court of the county and such district court shall thereupon issue a summons to the owner of such animal to show cause why the animal should not be killed or otherwise disposed of as ordered by the court. Upon hearing, the district court judge, upon finding that one or more of the facts set forth in this section exists, shall order such animal to be killed or otherwise disposed of as ordered by the court. Any owner refusing to obey such order shall be punished as provided in Section 4-22. All costs incurred for the disposition of the animal shall be paid by the owner.

Sec. 4-5. Abandonment. [Ord. No. 804]

No person shall abandon any animal in any public place or on any public highway, or upon the property of another.

ARTICLE II
Dogs

Sec. 4-6. Licensing and registration generally. [Ord. No. 804]

No person shall own, keep, harbor, possess or house any dog within the City unless such person shall comply with the laws of this state providing for the licensing and registration of such dog.

Sec. 4-7. Ownership. [Ord. No. 804]

Every person in possession of any dog, who shall allow such dog to remain about his or her premises for a period of five days, shall be rebuttably deemed to be the owner thereof for purposes of this chapter.

Sec. 4-8. Collar and license tag to be worn. [Ord. No. 804]

No person shall own, keep or house any dog four months old or older that does not, at all times when such dog is off the premises of the owner, wear a collar or harness with a license tag issued pursuant to the laws of this state or the City.

Sec. 4-9. Production of proof of licensing. [Ord. No. 804]

A person who owns or harbors a dog shall produce proof of a valid license upon request of a person who is authorized to enforce this chapter.

Sec. 4-10. Dogs running at large; leash required. [Ord. No. 804; Ord. No. 1346, 8-7-2002]

No person owning or having charge, care, custody, or control of any dog shall cause, permit, or allow the same to run at large or to be upon any highway, street, lane, alley, court or other public place, or upon any private property or premises other than those of the person owning or having charge, care, custody, or control of such dog, within the City, unless such dog is restrained by a substantial chain or leash and is in the charge, care, custody, or control of the person with the ability to restrain it.

Sec. 4-11. Impoundment—Generally. [Ord. No. 804]

The Animal Control Officer may seize any animal running at large in the City in violation of Section 4-10. The Animal Control Officer, upon seizing such animal, shall impound such animal and shall make a complete record of the breed, color and sex of such animal; the date and manner of its disposal; and if redeemed, reclaimed or sold, the name of the person by whom redeemed, reclaimed or purchased, the address of such person and the amounts of all the fees received or collected for or because of the impounding, reclaiming or purchasing thereof, and whether it is licensed. If licensed, he or she shall enter the number and year of the license tag and the name of the owner if upon the animal collar or if known; provided, that if any animal so found running at large cannot be seized and impounded, the Animal Control Officer or any police officer shall have the right to kill such animal and there shall be no liability in damages or otherwise for such killing involved in the scope of the Animal Control Officer's duties.

Sec. 4-12. Period; notice to owner; redemption. [Ord. No. 804; amended 1-17-2018 by Ord. No. 1706]

Any animal seized under the provision of Section 4-11 shall be placed in the animal shelter. Not later than 48 hours after the impounding of any animal by the Animal Control Officer, if the owner is known or can be ascertained, such owner shall be notified by the Animal Control Officer personally, by telephone or in writing, of the fact of impounding and the place where such animal may be reclaimed. For purposes of this section, the Animal Control Officer shall have presumptively discharged the responsibility of notifying the owner if contact is made with the person indicated on a dog identification tag or license tag of the impounded animal. The owner of any dog impounded may claim and redeem such animal after first securing a license if such animal is unlicensed. In the event such animal is redeemed from the animal shelter, the owner shall pay an impounding fee and an additional fee per day for each succeeding day the animal is impounded in such amount as is established by resolution of the City Council. This fee shall be in addition to any charge or assessment by the Ottawa County Humane Society and shall be remitted to the City. Upon the expiration of a period of five calendar days, the animal shall be sold, adopted out or destroyed. In the event such animal is redeemed from the Ottawa County Humane Society animal shelter, the owner shall pay such impounding fee and such further fees for the keeping of such animal as may from time to time be set and charged by the Ottawa County Humane Society. All impounding fees shall be paid to the City Treasurer and all fees collected by the Ottawa County Humane Society shall be retained by such society.

Sec. 4-13. Unlawful claiming or redemption. [Ord. No. 804]

It shall be unlawful for any person to claim or redeem an impounded animal under the provisions of this article when such person is not the legal owner having right or property in such animal. No person shall wilfully make a false or misleading statement or representation regarding the ownership or right to custody or control of an animal for which a license is required, or regarding the ownership of an animal redeemed from, turned over to, impounded by or coming under the jurisdiction of the animal shelter pursuant to this article.

Sec. 4-14. Permitting dog to soil public or private property. [Ord. No. 804]

It shall be unlawful for any person owning or having charge, care or control of any dog to allow or permit such dog to soil any public or private property other than that of the owner, keeper, custodian or person having control of such dog without promptly removing or disposing of, in a sanitary manner, any excreta deposited by a dog upon any public or private property.

Sec. 4-15. Animal biting incident; quarantine; penalty. [Ord. No. 804]

The Police Department or Animal Control Officer, upon receiving verified information from the owner, victim, director of the county Health Department, physician or any other person, that an animal is involved in a biting incident, shall order the quarantine of the animal causing the bite. Upon issuing an order for quarantine the rules provided for in this section for quarantine shall be enforced and every person having actual or constructive knowledge of the order shall obey all requirements of the quarantine.

(a) Every animal that bites a human or other animal shall be immediately confined by the owner, who shall promptly notify the Police Department or Animal Control Officer. The owner shall not permit the animal to come in contact with any other person or animal. The owner shall surrender possession of the animal to the Animal Control Officer on demand for supervised quarantine. Supervised quarantine shall be in the animal shelter, a veterinary hospital or by any other method of adequate confinement approved by the Animal Control Officer. The quarantine period shall be for not less than 10 days immediately following the time of the biting incident. A release from quarantine may be issued if signs of rabies have not been observed during the quarantine period. Any costs of such quarantine shall be the responsibility of the owner.

(b) If the Animal Control Officer orders quarantine other than supervised quarantine in an animal shelter or veterinary hospital, the owner shall be responsible for confining the animal as designated by the Animal Control Officer so as to prevent further exposure to humans or animals during the quarantine period.

(c) All animal bite reports shall be investigated by the Police Department or Animal Control Officer. Without permission of the Animal Control Officer, a person shall not kill or remove from the county limits an animal that has bitten a human or other animal, or that has been placed under quarantine, except when it is necessary to kill that animal to protect a person or other animal.

(d) The Animal Control Officer shall direct the disposition of any animal found to be or suspected of being rabid.

(e) An animal exposed to rabies shall be handled in one of the following methods:

(1) Humane destruction with notification to or under supervision of the Animal Control Officer.

(2) If the animal is not currently vaccinated, quarantine in a veterinary hospital or at the animal shelter for at least six months, immediately following the date of exposure.

(3) If the animal is currently vaccinated, immediate revaccination and quarantine for at least 30 days immediately following the date of exposure.

(4) A person shall not fail or refuse to surrender an animal for supervised quarantine or humane destruction as required herein for rabies control when demand thereof is made by the Animal Control Officer.

(5) A person having possession of or responsibility for a quarantined animal shall immediately notify the Police Department or the Animal Control Officer if the animal escapes, becomes or appears to become sick or dies, and in case of death of the animal while under quarantine, the person shall immediately surrender the dead body to the Animal Control Officer for diagnostic purposes.

(f) A person who owns an animal that has been placed under quarantine for biting a person shall be guilty of a misdemeanor under this section if such animal is found running free during this quarantine period.

Sec. 4-16. Use of dog runs, etc., restricted. [Ord. No. 804.]

It shall be unlawful for any person who owns or harbors a dog to keep such dog in any run, pen, chain, rope or any other outside enclosure when any one or more of the following facts exist:

(a) That such dog is kept within 20 feet of any occupied dwelling other than the owners', unless the dog is kept loose within a completely enclosed yard rather than a run, pen or on a chain or rope.

(b) That such pen, run, enclosure or area where dog is kept has not been properly cleaned and is in an unsanitary condition and is causing offensive odors in the area where dog is kept.

Sec. 4-17. Injured animals requiring emergency care. [Ord. No. 804]

An animal requiring medical or veterinary care resulting from an accident, injury or other activity may be removed by the Animal Control Officer for appropriate medical or veterinary treatment and care. Any costs incurred for the medical or veterinary treatment of the animal shall be paid by the owner. Failure to pay the costs incurred pursuant to this section shall constitute a violation of this chapter.

Sec. 4-18. Female dogs in heat. [Ord. No. 804]

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 owner or person.

Sec. 4-19. Killing of animals. [Ord. No. 804]

The Animal Control Officer may kill an animal in the course of his or her lawful discharge of this chapter which shows immediate vicious habits, has molested any person or animal lawfully in or upon any public street, place or is an immediate danger to any person, animal or property.

Sec. 4-20. Resisting officers. [Ord. No. 804]

No person shall hinder, resist, oppose or interfere with the Animal Control Officer or any police officer in the performance of their duties under this chapter or conceal or secrete any animal from any such officer or person authorized to enforce the provisions of this chapter. For purposes of this section, interference shall include attempting to release or free and animal seized or confined by the Animal Control Officer whether located in a vehicle or animal shelter of the City or county.

Sec. 4-21. Kennels. [Ord. No. 804]

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 or her, except as an accessory use to an animal hospital or a doctor of veterinary medicine.

Sec. 4-22. Penalty. [Ord. No. 804; Ord. No. 1242, 3-24-1999]

A person who violates or fails to comply with Sections 4-3, 4-8, 4-9, 4-10, 4-14, 4-16 or 4-18 of this chapter or any of the subsections of those sections is responsible for a Class I municipal civil infraction and subject to the civil fines set forth in the schedule of civil fines in Section 2-118 of this Code and any other relief that may be imposed by the court. A person who violates or fails to comply with Section 4-21 of this chapter is responsible for a Class II municipal civil infraction and subject to the civil fines set forth in the schedule of civil fines in Section 2-118 of this Code and any other relief that may be imposed by the court. Each act of violation and each day upon which such violation occurs shall constitute a separate violation.

Chapter 5

(RESERVED)

[Former Ch. 5 was repealed by Ordinance No. 830]

Chapter 6

BUILDINGS

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ARTICLE I

In General

Sec. 6-1. State of Michigan Building Code, administration and enforcement assumed. [Ord. No. 661; Ord. No. 805; Ord. No. 1307, 7-3-2001]

Pursuant to the power granted cities by Section 3k of Act 279 of the Public Acts of 1909, as amended,[1] and pursuant to the provisions of the State Construction Code Act of 1972, Act 230 of the Public Acts of 1972, as amended (MCLA § 125.1501 et seq.), the City of Holland hereby assumes the responsibility for the administration and enforcement of the Michigan Building Code throughout its corporate limits.

Sec. 6-2. State of Michigan Mechanical Code, administration and enforcement assumed. [Ord. No. 661; Ord. No. 805; Ord. No. 1307, 7-3-2001]

Pursuant to the power granted cities by Section 3k of Act 279 of the Public Acts of 1909, as amended, and pursuant to the provisions of the State Construction Code Act of 1972, Act 230 of the Public Acts of 1972, as amended, (MCLA § 125.1501 et seq.), the City of Holland hereby assumes the responsibility for the administration and enforcement of the Michigan Mechanical Code throughout its corporate limits.

Sec. 6-2.1. Board of Appeals members. [Ord. No. 1579, 1-18-2012]

(a) Construction Board. The Construction Board of Appeals shall have six members and two alternates. The members of the Construction Board of Appeals shall be the same as the members of the Zoning Board of Appeals. The alternate members of the Construction Board of Appeals shall be the same as the alternate members of the Zoning Board of Appeals.

(b) Term. The term served by the members of the Construction Board of Appeals shall be three years and shall be staggered the same as members of the Zoning Board of Appeals. The initial appointments under this section shall be for terms equal to the remainder of the terms of the members of the Zoning Board of Appeals.

(c) Meetings. The Construction Board of Appeals shall meet as a separate meeting immediately following the Zoning Board of Appeals and/or Housing Board of Appeals when agenda items are brought before it. Notice of this separate shall be posted as required by the Open Meetings Act.

Sec. 6-3. State of Michigan Plumbing Code, administration and enforcement assumed. [Ord. No. 661; Ord. No. 805; Ord. No. 1307, 7-3-2001]

Pursuant to the power granted cities by Section 3k of Act 279 of the Public Acts of 1909, as amended, and pursuant to the provisions of the State Construction Code Act of 1972, Act 230 of the Public Acts of 1972, as amended, (MCLA § 125.1501 et seq.), the City of Holland hereby assumes the responsibility for the administration and enforcement of the Michigan

1. **Editor's Note: See MCLA § 117.3(k).**

Plumbing Code throughout its corporate limits. In addition to the Michigan Plumbing Code, the requirements of Chapter 29 shall also apply with respect to the sanitary sewer system and connections.

Sec. 6-3.1. License required. [Ord. No. 1402, 12-15-2004]

No person shall engage in the work of a residential builder or residential maintenance and alteration contractor, as defined in MCLA § 339.2401, unless such person first obtains a license to perform such work or unless the work is exempt from the licensing requirements. No person shall perform installations, alterations or servicing work for which a license is required under the provisions of MCLA § 338.977 (mechanical work), MCLA § 338.885 (electrical work), or MCLA § 338.3525 (plumbing work) unless such person first obtains a license to perform such work.

ARTICLE II
Moving Buildings

Sec. 6-4. License—Required. [Code 1955, § 7-9.1]

No person shall engage in the business or occupation of moving buildings into or upon the public streets and avenues of the City without having first obtained a license to engage in such business or occupation in the manner provided in this article and in Chapter 17, and no person shall so move any buildings unless he or she is licensed to engage in such business.

Sec. 6-5. Insurance prerequisite to issuance. [Code 1955, § 7-9.2; Ord. No. 995, 1-3-1990; 1-17-2018 by Ord. No. 1707]

(a) Such applicant shall, as a condition of the issuance of such license, file with the City Clerk evidence that he or she is covered by one or more public liability and property damage policies of insurance, through one or more companies approved by the Commissioner of Insurance of the state, in the amounts specified by resolution of the City Council. Such policies of insurance shall insure both the applicant and the City against loss or damage to any person or property as a result of the moving of any building by the applicant.

(b) In the event that any policy of insurance required herein shall lapse or become void for any reason whatsoever, the license issued under this chapter shall become inoperative and void until a new policy of insurance shall have been provided and filed with the City Clerk, or the existing policy of insurance reinstated in full force, and all of applicant's activities pursuant to such license shall be suspended and discontinued until the filing of such new policy of insurance, or proof of reinstatement thereof. Every policy of insurance, both original and renewal, shall be approved by the City Attorney as to form and shall be filed with the City Clerk.

Sec. 6-6. Permit for buildings of certain dimensions—Required; to whom issued, bond required. [Code 1955, § 7-9.3; Ord. No. 1024, 9-18-1991; 1-17-2018 by Ord. No. 1707]

(a) No person shall move a building or prepare to move a building or make any site preparations for moving a building, the exterior dimensions of which exceed eight feet in width or 10 feet in length or 12 feet in height, without first obtaining a permit for the building to be moved and paying the fee provided by resolution of the City Council. No such permit shall be issued except to a licensed building mover or his or her authorized agent. If the site to which such building will be moved is located within the City of Holland, no site preparations at the proposed new site shall be made prior to the issuance of a permit and payment of the fee required by resolution of the City Council.

(b) No person shall move a building described in Subsection (a) and no permit shall be issued until the owner of the building to be moved or the licensed building mover shall file with the City Treasurer's office:

(1) A performance bond in the form of a collected funds cash instrument (i.e., bank certified check, money order, etc.) or a surety performance bond in the amount of $1,000 or such higher amount as determined by the City Council. Disposition of the deposit or bond shall be conditioned upon the timely and proper performance of the duties imposed under this chapter and the representations set forth in the application for permit. If the Department of Community and Neighborhood Services certifies that the building has not been moved and completed in conformance with the requirements of this chapter, the deposit or bond shall be forfeited. If the responsible person complies with all of the requirements of this chapter, the Department of Community and Neighborhood Services shall notify the finance office to release the bond; and

(2) A deposit for the estimated cost of services to be rendered by the various City of Holland departments described in Section 6-8 to assist with the building moving. The total estimated amount of this deposit shall be determined by the Department of Community and Neighborhood Services.

(c) The requirements of Subsection (a) shall not apply to new modular prefabricated structures moved into the City of Holland or buildings moved to a different location on the same tax parcel.

(d) The licensed building mover, the person responsible for complying with Section 6-10, or their contractors or subcontractors shall also obtain all applicable building, plumbing and other permits required by the codes of the City of Holland in addition to the building moving permit.

Sec. 6-7. Application generally. [Code 1955, § 7-9.4; Ord. No. 491; Ord. No. 1024, 9-18-1991]

An application for a building moving permit required by Section 6-6 shall be made to the Department of Community and Neighborhood Services upon forms provided by that Department. The application shall be signed by the licensed building mover and the person(s)

responsible for complying with the requirements of Section 6-10. The application shall include the following information:

(1) A detailed description of the condition of the building to be moved;

(2) The location from and to which the building will be moved;

(3) The route over which it will be moved;

(4) Evidence that the provisions of Sections 6-11 and 6-12 have been satisfied;

(5) A time schedule setting forth the schedule for preparing the building, moving the building, restoring the site from which the building will be moved and completing the site to which the building will be moved;

(6) Copies of easements obtained for all private property which will be crossed or encroached upon by the applicant in moving the building;

(7) A site restoration plan for the property from which the building will be removed (including, but not limited to, safety and security measures pending site restoration);

(8) Proof that all utilities serving the building to be moved have been disconnected by the utility;

(9) A site plan for the proposed new site which will indicate building and land elevations, water drainage and safety or security measures to be used pending completion of the site;

(10) Such other information as the City Building Inspector may require.

Sec. 6-8. Reviews, referrals and approvals required. [Code 1955, § 7-9.4; Ord. No. 491; Ord. No. 1024, 9-18-1991; 1-17-2018 by Ord. No. 1707]

The Building Inspector shall review the application to determine whether the building complies with the Housing Law of the State of Michigan, Article I of this chapter, Article II of Chapter 14, and Chapters 9, 25, and 39 and Section 29-8. In addition, the Building Inspector shall refer the application to:

(a) The City Engineer for his or her written approval of the proposed route;

(b) The Board of Public Works for approval of the provisions made for the temporary removal of all City electrical wires and cables, the proposed capping of water and sewer services, and the arrangements for the payment of the cost thereof;

(c) The Parks and Recreation Director for its report as the effect such moving will have on existing trees and shrubs located in public places and the arrangements for payment of the costs of trimming and removing same and for his or her approval;

(d) The Chief of Police for approval with respect to scheduling a police escort, necessary detours and arrangements for directing traffic;

(e) The City Treasurer for certification that all outstanding accounts receivable invoiced to the mover have been paid in full and that there are no outstanding taxes, assessments,

or liens for public utilities on the real property from which or to which the building is moved.

Sec. 6-9. Grant or denial of application. [Code 1955, § 7-9.4; Ord. No. 491; Ord. No. 1024, 9-18-1991]

(a) If the property to which the building will be moved is located outside of the corporate limits of the City, the Department of Community and Neighborhood Services shall issue the building moving permit after compliance with the provisions of Sections 6-6, 6-7, and 6-8 and payment of the required permit fee.

(b) If the property to which the building will be moved is located within the corporate limits of the City and upon compliance with the provisions of Sections 6-7 and 6-8, the City Clerk shall schedule the application for a public hearing and review by the City Council. Notice of the public hearing shall be sent to all persons owning property (according to the tax rolls) within 300 feet of the proposed new site. The Council may refuse to authorize the permit whenever it determines that the proposed building moving would involve a violation of this code, the proposed building will be a substantial detriment to the property adjacent to the proposed new site, or the moving will adversely affect the public health, safety or general welfare. If the Council authorizes the permit, the Department of Community and Neighborhood Services shall issue the building moving permit upon payment of the required fee and compliance with Section 6-6.

Sec. 6-10. Duties imposed upon permit holders—Generally. [Code 1955, § 7-9.5; Ord. No. 1024, 9-18-1991]

A person holding a permit to move a building under this article shall:

(1) Follow the route prescribed in the permit issued;

(2) Observe all rules, regulations and provisions of this code now in force and which shall be hereafter passed for the protection of streets or for the regulation of the business of house moving;

(3) Move the building with all dispatch and in a manner least calculated to obstruct public travel;

(4) If it shall be necessary to leave the building in any street over night, place good and sufficient lights, shining a bright red light upon the same as a warning to persons passing over the street or avenue, and keep the lights burning throughout the night;

(5) Comply with the time schedule filed with the Department of Community and Neighborhood Services and approved by City Council under Section 6-7 or any amendments approved by the Department of Community and Neighborhood Services and City Council;

(6) Comply with the site restoration plan for the property from which the building was removed or any amendment approved by the Department of Community and Neighborhood Services; and

(7) Construct a foundation under the building at the property to which it is moved within the time limit set forth in the schedule filed with the application or any amendment approved by the Department of Community and Neighborhood Services.

Sec. 6-11. Removal of cables and wires. [Code 1955, § 7-9.6; Ord. No. 1024, 9-18-1991]

If it shall be found that in moving any building, the building may come in contact with the lines, wires or cables of any person having authority to string such wires or cables, the permit holder under this article shall forthwith notify the principal local officer or agent of such person, or both, as the case may be, that the moving of such building will interfere with such wires or cables. It shall also be the duty of such permit holder thereupon to pay or arrange for payment to such agent, the actual expense of removing and replacing such equipment.

Sec. 6-12. Removal, trimming and replacement of trees. [Code 1955, § 7-9.7; Ord. No. 1024, 9-18-1991]

If it shall be found that in moving any building, the building will come into contact with any trees located in a public place to such an extent as to require the trimming or removal of the trees and if the removal is approved by the Department of Community and Neighborhood Services, the permit holder shall pay the cost of trimming or the cost of removing and the replacement thereof as the case may be.

ARTICLE III
Land Use Permits[2]

Sec. 6-13. Land use permits required, exception. [Ord. No. 1307, 7-3-2001]

(a) The owner of property or the owner's agent shall obtain a land use permit from the City prior to constructing or installing any of the following improvements to or on real property located in the City:

(1) A one-story detached accessory structure with a floor area of 200 square feet or less for one-family or two-family residential property or with a floor area of 120 square feet or less for other property;

(2) Fences;

(3) Driveways and parking lots that are not more than 30 inches above grade and not over any basement or story below;

(4) Antennas; and

(5) Signs; except those exempt from permits under Sections 39-353 and 39-354 of the Holland City Code.

2. Editor's Note: Former Art. III, which pertained to the Mechanical Code, adopted by Ord. No. 806, as amended 10-7-1992 by Ord. No. 1069, was replaced 7-3-2001 by Ord. No. 1307. For current provisions on the Mechanical Code, see Section 6-2.

(b) A land use permit is not required for any of the above if the owner is required to obtain, and does obtain, a building permit.

(c) If property is leased to a tenant, the reference to the owner in Subsection (a) of this section shall be deemed to refer to the tenant if the tenant is constructing or installing an improvement that requires a land use permit.

Sec. 6-14. Conditions for obtaining land use permit, fees. [Ord. No. 1307, 7-3-2001]

In order to obtain a land use permit, the applicant must file an application with the Department of Community and Neighborhood Services on a form adopted by the Department for such purposes, shall provide the information required by the application form and shall pay the fee required for land use permits, as established by resolution adopted by the Council.

ARTICLE IV
Enforcement and Penalties

Sec. 6-15. Enforcement. [Ord. No. 1307, 7-3-2001]

The Building/Zoning Administrator under Chapter 39 of the Holland City Code shall administer and enforce the provisions of this Chapter 6.

Sec. 6-16. Violations; penalties and remedies. [Ord. No. 1307, 7-3-2001; Ord. No. 1402, 12-15-2004]

(a) A person who violates or fails to comply with the requirements of Section 6-13 for land use permits or the requirements of the Michigan Building Code, Michigan Mechanical Code, or Michigan Plumbing Code (other than those violations described in Subsection (b) of this section shall be misdemeanors) in the City of Holland is responsible for a Class III municipal civil infraction and subject to the civil fine set forth in the schedules of civil fines in Section 2-118 of the Holland City Code and any other relief that may be imposed by the court.

(b) A person who violates Sections 6-3.1 through 6-12 of this chapter, a person who commences any construction, work or other activity that requires a permit under the Michigan Building Code without first obtaining the permit or any person who violates or fails to comply with a stop-work order issued by the City under the Michigan Building Code, Michigan Mechanical Code, or Michigan Plumbing Code is guilty of a misdemeanor subject to the penalties described in Section 1-10 of the Holland City Code.

(c) Each act of violation and each day upon which such violation occurs shall constitute a separate violation.

(d) A violation of the Michigan Building Code, Michigan Mechanical Code, or the Michigan Plumbing Code shall also constitute a nuisance per se, subject to the remedies provided in Sections 1-10 through 1-10.2 of the Holland City Code.

ARTICLE V

Floodplain Management Provisions

Sec. 6-17. Agency designated. [Ord. No. 1573, 11-16-2011]

Pursuant to the provisions of the Michigan Construction Code, in accordance with Section 8b(6) of Act 230 of the Public Acts of 1972, as amended,[3] the Building/Zoning Administrator of the City of Holland is hereby designated as the enforcing officer to discharge the responsibility of the City of Holland under Act 230, of the Public Acts of 1972, as amended, State of Michigan. The City of Holland assumes responsibility for the administration and enforcement of said Act throughout the corporate limits of the City of Holland.

Sec. 6-18. Code appendix enforced. [Ord. No. 1573, 11-16-2011]

Pursuant to the provisions of the State Construction Code, in accordance with Section 8b(6) of Act 230 of the Public Acts of 1972, as amended, Appendix G of the Michigan Building Code shall be enforced by the City of Holland within the corporate limits of the City of Holland.

Sec. 6-19. Designation of regulated flood-prone hazard areas. [Ord. No. 1573, 11-16-2011]

The Federal Emergency Management Agency (FEMA) Flood Insurance Study (FIS) for Ottawa County, Michigan with an effective date of December 16, 2011, and the Flood Insurance Rate Maps (FIRMS) panel number(s) of 0292E, 0293E, 0294E, 0311E, 0312E, 0316E, and 0318E, with an effective date of December 16, 2011, are adopted by reference for the purposes of administration of the Michigan Construction Code, and declared to be a part of Section 1612.3 of the Michigan Building Code, and to provide the content of the "flood hazards" section of Table R301.2(1) of the Michigan Residential Code.

Sec. 6-20. Board of Appeals. [Ord. No. 1573, 11-16-2011]

The Zoning Board of Appeals is hereby designated as the "Board of Appeals" under Appendix G of the Michigan Building Code and is hereby designated to hear all appeals of decisions made by the enforcing agency.

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3. Editor's Note: See MCLA § 125.1508b(6).

Chapter 7

CABLE TELEVISION AND TELECOMMUNICATIONS

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ARTICLE I
Cable Television

Sec. 7-1. Purpose. [Ord. No. 1230,[1] 12-16-1998; Ord. No. 1285, 10-4-2000; Ord. No. 1586, 5-16-2012]

The purpose of this article is to regulate the construction, maintenance, and operation of cable systems in the City and to provide for the granting and renewal of franchises for the construction, maintenance and operation of cable systems and set forth a procedure for applications for a franchise and renewal of a franchise. This article is adopted to promote the development of cable systems that meet the community's needs for cable system(s) at present and into the future. The City also desires to provide for public, educational and governmental channels and to regulate the presence of improvements in the public right-of-way to avoid unnecessary clutter and congestion. This article is designed to require adequate compensation for the use of the public right-of-way by the operators of cable systems.

Sec. 7-2. Definitions. [Ord. No. 1230, 12-16-1998; Ord. No. 1285, 10-4-2000; Ord. No. 1586, 5-16-2012]

For the purposes of this article, the following terms, phrases, words, and abbreviations shall have the meanings given herein, unless otherwise expressly stated. When not inconsistent with the context, words used in the present tense include the future tense and vice versa, words in the plural number include the singular number, and vice versa, and the masculine gender includes the feminine gender and vice versa. The words "shall" and "will" are mandatory, and "may" is permissive. Unless otherwise expressly stated, terms, phrases, words, and abbreviations not defined herein shall be given their common and ordinary meaning. If a franchise issued under this Chapter 7 contains a different definition than the definition of any of the following terms, the franchise definition will control for purposes of interpreting that franchisee's obligations.

(a) ACT — The Federal Communications Act of 1934, as amended.

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1. Editor's Note: This ordinance also amended former Ch. 7, which pertained to cable television and telecommunications, adopted by Ord. No. 509, as amended by Ord. No. 635, Ord. No. 820, Ord. No. 995, adopted 1-3-1990, Ord. No. 1069, adopted 10-7-1992, and Ord. No. 1098, adopted 10-3-1993.

(b) BASIC CABLE SERVICE — Any cable service tier which includes the retransmission of local television broadcast signals and shall include all operable PEG channels.

(c) CABLE SERVICE —

(1) The one-way transmission to subscribers of video programming or other programming service;

(2) Subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service; and

(3) Cable modem Internet service, when consistent with applicable law and when provided in conjunction with a cable system. Cable service does not include telecommunications services which are not included in the definition of cable services in Section 602 of the Act.

(d) CABLE SYSTEM — A facility or system, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide cable service within the City which includes video programming and which is provided to multiple subscribers within a community, but such term does not include:

(1) A facility that serves only to retransmit the television signals of one or more television broadcast stations;

(2) A facility that serves subscribers without using any public right-of-way;

(3) A facility of a common carrier which is subject, in whole or in part, to the provisions of Title II of the Act, except that such facility shall be considered a cable system [other than for purposes of Section 621(c) of the Act] to the extent such facility is used in the transmission of video programming directly to subscribers, unless the extent of such use is solely to provide interactive on-demand services;

(4) An open video system that complies with Section 653 of the Act; or

(5) Any facilities of any electric utility used solely for operating its electric utility systems.

A person that provides cable services using facilities owned by an affiliated person shall also be deemed to operate a cable system.

(e) CABLE TELEVISION COMMISSION — The advisory body created by Sections 2-60 to 2-63 of the Holland City Code.

(f) CHANNEL — A portion of the electromagnetic frequency spectrum which is used in a cable system and which is capable of delivering a television channel, as television channel is defined by the FCC by regulation.

(g) CITY — The City of Holland.

(h) COUNCIL — The City Council of the City of Holland.

(i) FEDERAL COMMUNICATIONS COMMISSION or FCC — The present federal agency of that name as constituted by the Act, or any successor agency created by the United States Congress.

(j) FRANCHISE — For purposes of this article, a nonexclusive, limited authorization awarded by the Council and set forth in a written agreement for the construction, maintenance, upgrade and operation of a cable system in the City.

(k) GRANTEE — Any holder of a cable system franchise granted pursuant to this article.

(l) GROSS REVENUES — The same as that term is defined in the Act and the Uniform Act.

(m) PEG — Public, educational and/or governmental channels.

(n) PERSON — Any individual, firm, partnership, association, corporation, company or organization or entity.

(o) SUBSCRIBER — Any person who contracts with the grantee for, or is in any manner lawfully provided with, cable services.

(p) UNIFORM ACT — The Michigan Uniform Video Services Local Franchise Act, MCLA § 484.3301 et seq.

(q) USER — Any person who is provided the use of the grantee's cable system, channels, equipment or facilities.

Sec. 7-3. through Sec. 7-4. (Reserved)[2]

Sec. 7-5. Franchise required. [Ord. No. 1230, 12-16-1998; Ord. No. 1285, 10-4-2000]

No person shall install, construct, maintain or otherwise operate a cable system in the City except pursuant to a franchise issued by the City. A franchise granted for a cable system shall not be deemed to authorize the grantee to use City property, easements or public rights-of-way to provide services other than cable services. Notwithstanding the preceding sentence, a grantee may provide services other than cable services over the cable system if (a) no further authorization is required by law for such other services or (b) the grantee obtains and maintains all further authorizations required by law. The holder of a franchise or other right to use the City's property, easements, or public rights-of-way for purposes other than operating a cable system shall be required to obtain a franchise prior to operating a cable system.

2. **Editor's Note: Former Sections 7-3 and 7-4, which pertained to license requirements, application and investigation and license expiration, renewals, suspension and revocation, adopted 12-16-1998 by Ord. No. 1230, as amended 10-4-2000 by Ord. No. 1285, was repealed 5-16-2012 by Ord. No. 1587.**

Sec. 7-6. Franchise issuance; amendments; renewal. [Ord. No. 1230, 12-16-1998; Ord. No. 1285, 10-4-2000; Ord. No. 1586, 5-16-2012]

(a) Council may grant application(s) for one or more franchises, or deny an application, for the construction and operation of a cable system in the City after consideration of the franchise applicant(s) proposal(s) consistent with the Act and the Uniform Act. Any franchise shall be subject to this article and the City's Charter.

(b) The City specifically reserves the right to grant, at any time, such additional franchises for a cable system as it deems appropriate. Additional franchises shall not be deemed to modify, revoke, terminate or damage any rights previously granted to any other grantee except as required by federal or state law or explicitly required under a prior franchise.

(c) (Reserved)

(d) Applications for a new, renewed or amended franchise shall be made in such form as required under the Uniform Act and shall be accompanied by a nonrefundable application review fee as the Council may prescribe by resolution and filed with the City Clerk. The City Clerk shall report such filing to the Council which shall direct appropriate investigation to allow it to act upon the application within any time limits imposed by law.

(e) Any franchise or renewal of a franchise and the rights, privileges, authority, and responsibilities established shall take effect and be in force from and after final approval by Council and compliance with the requirements of the franchise and this article, and shall continue in force and effect for a period of 10 years from the effective date of the franchise. A new franchise or a renewal shall only be effective if the grantee files with the City Clerk all required letters of credit, construction bonds and insurance certificates. If a grantee fails to comply with this subsection, it shall acquire no rights, privileges, or authority whatsoever.

(f) Grantees shall apply to any appropriate utility companies and other agencies (including the Holland Board of Public Works) for all necessary pole attachment or line agreements, authorizations, or registrations for the construction of a cable system, and for all permits then normally available.

Sec. 7-7. (Reserved)[3]

Sec. 7-8. Submission of plans. [Ord. No. 1230, 12-16-1998; Ord. No. 1285, 10-4-2000; Ord. No. 1586, 5-16-2012]

(a) (Reserved)

(b) Each application for a building, electrical, street cut or other required permit shall be accompanied by plans and specifications for the proposed construction. Plans and specifications for use of City property, utility easements or the public rights-of-way shall be submitted to the City Planning Department for processing and review.

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3. Editor's Note: Former Section 7-7, which pertained to construction time tables, adopted 12-16-1998 by Ord. No. 1230, as amended 10-4-2000 by Ord. No. 1285, was repealed 5-16-2012 by Ord. No. 1587.

(c) No plans and specifications shall be approved and no building, electrical, street cut or other required permits shall be issued by the City unless the following conditions are met:

(1) A franchise has been awarded to the applicant by the City and has not been terminated;

(2) Except as may otherwise be provided in a specific pole attachment agreement, franchise or similar authorization, the applicant agrees to indemnify and hold harmless the City and existing users of the City property, utility easements or the public rights-of-way from all costs and expenses incurred in strengthening poles, replacing poles, rearranging attachments, placing underground facilities, and all other costs or fees, including those incident to administration, inspections, engineering and legal review, incurred by the City or other users of the City utility easements and the public rights-of-way;

(3) The plans and specifications have been reviewed and approved by the City's Board of Public Works;

(4) Grantee has executed and filed pole attachment agreements or similar authorization with the City.

(5) Grantee has provided certificates of insurance and surety bonds or letters of credit in the same manner as required of others seeking to do construction in the right-of-way.

(d) Changes to plans. Changes to approved construction plans shall be made only with the prior approval of the City.

(e) Detailed "as built" plans shall be submitted for all new construction or installations in the City utility easements and the public rights-of-way, subject to any appropriate trade secret protections.

Sec. 7-9. (Reserved)[4]

Sec. 7-10. Franchise fee payments. [Ord. No. 1230, 12-16-1998; Ord. No. 1285, 10-4-2000; Ord. No. 1549, 7-21-2010; Ord. No. 1586, 5-16-2012]

(a) A grantee shall pay to the City for use of its streets, public places, and other facilities, as well as for the City's maintenance, improvements, and supervision of the franchise, a franchise fee in an amount equal to maximum amount allowed by law upon execution of the franchise or execution of a renewal of a franchise. Payments due the City under the terms of this subsection shall be paid quarterly on or before 45 days following the end of the quarter. The City shall be furnished a certificate with each payment reflecting the gross revenue, deductions and computations for the period covered by the payment.

4. Editor's Note: Former Section 7-9, which pertained to rates, adopted 12-16-1998 by Ord. No. 1230, as amended 10-4-2000 by Ord. No. 1285, was repealed 5-16-2012 by Ord. No. 1587.

(b) Franchise fee payments shall be in addition to any other lawful tax, charge, fee, or payment due the City by a grantee.

(c) The franchise fee shall be used for those purposes determined pursuant to appropriations approved by the City Council.

Sec. 7-11. Insurance. [Ord. No. 1230, 12-16-1998; Ord. No. 1285, 10-4-2000]

(a) A grantee shall at all times during the life of a franchise carry personal and public liability insurance, automobile liability insurance coverage, broadcaster's liability insurance, and workers' compensation insurance in amounts as shall be reasonably determined by the City. A grantee shall require its contractors and subcontractors carry workers' compensation insurance as required by law and shall maintain certificates of such insurance on file with the grantee. The City shall be named as an additional insured on the liability insurance and the broadcaster's liability insurance.

(b) All required insurance coverage shall provide for a thirty-day notice to the City prior to any material alteration or cancellation of such coverage. Failure of the grantee to provide appropriate insurance certificates to the City within 30 days after the execution of a franchise or notice of cancellation or alteration in coverage shall render the franchise null and void.

Sec. 7-12. Indemnification. [Ord. No. 1230, 12-16-1998; Ord. No. 1285, 10-4-2000]

(a) By acceptance of a franchise granted by the City, grantee agrees to indemnify, defend and hold harmless the City, its officers, boards, commissioners, agents and employees from any and all actions, claims, suits, penalties and judgments for damages at law or equity (including any administrative or arbitration proceedings) of any nature whatsoever relating to, arising out of or through, or alleged to arise out of or through:

(1) The acts or omissions of the grantee, its servants, employees, contractors and agents;

(2) The conduct of its business as a cable television communications service; and

(3) The granting of a franchise to grantee pursuant to this article.

(b) The grantee shall defend in the name of the City, and pay all expenses incurred in defending City, all suits, administrative proceedings, or other types of claims with regard to all damages, penalties or other requested relief the City may legally be required to pay or suffer as a result of the franchise granted hereunder. Damages and penalties shall include but not be limited to damages arising out of the construction, installation, operation or maintenance of its cable communications system, whether or not any such act or omission is authorized, allowed or prohibited by this article or the license granted hereunder. Expenses shall include all expenses including reasonable attorney fees and shall also include a reasonable value of any services rendered by the office of the City Attorney, whether such services were rendered to the City, or in cooperating with counsel selected by grantee. In all instances where grantee may be required to indemnify the City, the City shall give prompt notification of any claims to grantee and shall cooperate with grantee in the defense thereof.

(c) The City shall indemnify and hold the grantee harmless from any damage resulting from any such acts of the City or its officials, boards, commissions, agents or employees in utilizing any PEG access channels, equipment or facilities and for any such acts committed by the City in connection with work performed by the City and permitted by a franchise on or adjacent to the cable system. Furthermore, City shall indemnify and hold grantee harmless from any claims, losses or damages arising from the use of the emergency broadcast system by City or use of grantee's facilities during an emergency, including, but not limited to, the transportation and delivery of emergency information much as the occurrence police, fire, and/or ambulance/rescue crews.

Sec. 7-13. Compliance with law. [Ord. No. 1230, 12-16-1998; Ord. No. 1285, 10-4-2000; Ord. No. 1586, 5-16-1912]

(a) A grantee shall at all times comply with all laws and regulations of the state and federal government or any administrative agency unless released by law. However, if such state or federal law or regulations shall require a grantee to perform any service, or shall permit a grantee to perform any service, or shall prohibit a grantee from performing any service, in conflict with the terms of the franchise or of any law or regulation of the City, a grantee shall notify the City of the point of conflict believed to exist between such regulation or law and the laws or regulations of the City or the franchise.

(b) If any provision of the franchise is held by any court of competent jurisdiction to be invalid as conflicting with any federal or state law, rule or regulation now or hereafter in effect, or is held by such court to be modified in any way in order to conform to the requirements of any law, rule or regulation, said provision may be considered a separate, distinct and independent part of the franchise, and such holding shall not affect the validity and enforceability of all other provisions. In the event that such law, rule or regulation is subsequently repealed, rescinded, amended or otherwise changed, so that the provision which has been held invalid or modified is no longer in conflict with the law, rules or regulations said provision shall return to full force and effect and shall be binding on the parties.

(c) If the City, after a public hearing, determines that a material provision of a franchise is affected by action of a court or of the state or federal government, the City shall have the right to seek modification of any of the provisions to such reasonable extent as may be necessary to carry out the full intent and purpose of the franchise.

Sec. 7-14. (Reserved)[5]

Sec. 7-15. Public, educational and/or governmental channels. [Ord. No. 1230, 12-16-1998; Ord. No. 1285, 10-4-2000; Ord. No. 1586, 5-16-2012]

(a) A grantee shall donate use of PEG channels for use by the City or its designees as set forth in its franchise. A grantee shall also provide financial support for the PEG use of

5. Editor's Note: Former Section 7-14, which pertained to general capability, adopted 12-16-1998 by Ord. No. 1230, as amended 10-4-2000 by Ord. No. 1285, was repealed 5-16-2012 by Ord. No. 1587.

the PEG channels and the development of PEG programming for those channels as set forth in the franchise and to the maximum extent allowed under the Act and the Uniform Act.

(b) Every cable system franchise issued pursuant to this article shall provide for PEG access channels capable of carrying digital, video and audio transmissions pursuant to the provisions of the Cable Communications Policy Act of 1984, Section 611 (47 U.S.C. 531), as may be amended, and the Uniform Act.

(c) The system will have upstream capability for audio and video origination on the assigned PEG channels as set forth in the franchise.

(d) (Reserved)

(e) A grantee shall make all reasonable efforts to coordinate the cablecasting of PEG access programming upon the cable system at the same time and upon the same channel designations as such programming is cablecast upon other cable television systems within the area.

(f) To the extent that it is technically and economically feasible, the cable system shall be interconnected with other cable systems within or contiguous to the City so as to enable each cable system to carry and cablecast the PEG programming of the other cable systems.

Sec. 7-16. through Sec. 7-17. (Reserved)[6]

Sec. 7-18. Other business activities. [Ord. No. 1230, 12-16-1998; Ord. No. 1285, 10-4-2000]

Neither a grantee nor any shareholder of a grantee shall engage in the business of selling, repairing, or installing television or radio receivers within the City during the life of a franchise. This section shall not prohibit the installation of available, special devices or appliances by a grantee which are not normally otherwise available.

Sec. 7-19. Conditions of street occupancy. [Ord. No. 1230, 12-16-1998; Ord. No. 1285, 10-4-2000]

(a) The poles, wires, and appurtenances of a grantee's system shall be located, erected, and maintained upon existing utility facilities wherever feasible. A grantee shall use underground equipment where other utilities use underground equipment and where City ordinance requires underground installation.

(b) A grantee shall be allowed, subject to appropriate regulations, to set its own poles, anchors, guys, and similar facilities within public rights-of-way within the City when necessary if other poles are not available and upon the securing of permits from the City.

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6. Editor's Note: Former Section 7-16, which pertained to service to customers, and Section 7-17, which pertained parental lockout, as adopted 12-16-1998 by Ord. No. 1230 and amended 10-4-2000 by Ord. No. 1285, were repealed 5-16-2012 by Ord. No. 1587.

(c) All facilities erected by a grantee within the City shall be so located as to cause minimum interference with the proper use of public rights-of-ways and public places and to cause minimum interference with the rights and conveniences of adjoining property owners.

(d) In case of disturbance or damage to any street, sidewalk, alley, public way, other public property, or private property, a grantee shall, at its own expense, promptly and in a manner acceptable to the City or private property owner, replace, repair, and otherwise restore such disturbance of damage.

(e) If, at any time during the term of a franchise, the City shall properly elect to undertake public building or construction, altering the grade, alignment or location of any street, sidewalk, alley, or public way, a grantee shall promptly, upon reasonable notice from the City, remove and relocate its facilities at grantee's expense in a manner acceptable to the City.

(f) A grantee shall at all times employ ordinary care and shall install and maintain industry standards and services for preventing failures and accidents which would cause damage, injuries, or nuisance to the public.

(g) A grantee shall not erect or otherwise install any poles, buildings, underground or aboveground facilities, anchors, guys, or any other type of structure or equipment on private property without first obtaining appropriate easements from private property owners.

Sec. 7-20. Technical standards. [Ord. No. 1230, 12-16-1998; Ord. No. 1285, 10-4-2000; Ord. No. 1586, 5-16-2012]

(a) Each grantee shall construct, install and maintain its cable system in a manner consistent and in compliance with all generally applicable laws, ordinances, construction standards, governmental requirements and FCC technical standards or applicable successor standards.

(b) Each grantee shall at all times comply with building, electrical, and other applicable federal, state and local regulations or codes and other applicable ordinances of the City. If any codes conflict, the grantee shall comply with the most protective.

(c) In any event, the cable system shall be constructed so as to not endanger or interfere with the safety of persons or property.

(d) All working facilities, conditions, and procedures, used or occurring during construction of the cable system shall comply with the standards of the Michigan Occupational Safety and Health Administration, or its successor.

(e) Construction, upgrades, installation and maintenance of a cable system shall be performed in an orderly and workmanlike manner, and in close coordination with public and private utilities serving the City following accepted industry construction procedures and practices and working through existing committees and organizations.

(f) All cable and wires shall be installed, where possible, parallel with electric and telephone lines, and multiple cable configurations shall be arranged in parallel and bundled with due respect for engineering considerations.

(g) Any antenna structure used in the cable system shall comply with construction, marking and lighting of antenna structures, required by any applicable federal or state law or regulation and any local ordinance, including Chapter 39 of this Code.

(h) RF leakage (ingress and egress) shall be checked as required by FCC regulations to prove no harmful interference signal combinations are possible. Radiation shall be measured as required by FCC regulations to prove no harmful interference.

(i) A grantee shall develop an adequate preventive maintenance policy. Such policy shall be available for inspection by the City.

(j) Suitable connections between all City and county government, educational and library facilities within the City, with capability to provide for full two-way audio, video and data communications may be required of grantee under a franchise, without cost, so long as the City can prove reasonable need for the interconnect. The need for this interconnect shall be addressed at any review of a franchise pursuant to this article.

Sec. 7-21. Maps, records and reports. [Ord. No. 1230, 12-16-1998; Ord. No. 1285, 10-4-2000]

(a) A grantee, upon request, shall provide the City with current maps of its existing and proposed installations, subject to any appropriate trade secret protections.

(b) Upon request, but not more than once per year, a grantee shall furnish to the City a current listing of any of its users, officers, owners, partners, shareholders, bondholders and any guarantor which holds 5% or more shares of, or other ownership interest in, grantee or any guarantor of grantee.

(c) An accurate and comprehensive file shall be kept by the grantee of all subscriber and user complaints regarding the cable system. A procedure shall be established by the grantee by the time of installation of the system to quickly and reasonably remedy complaints. Complete records of grantee's actions in response to all complaints shall be kept. Each customer's files and records shall be made available for inspection upon request by the customer during normal business hours subject to applicable privacy laws.

(d) Grantee shall submit to the City such other information or reports reasonably related to grantee's performance of its obligations under the franchise, in such form as maintained by grantee and at such times as the City may reasonably request.

(e) A grantee shall allow the City to make inspections of any of the grantee's facilities and equipment at any time upon reasonable notice or, in case of emergency, upon demand without notice.

(f) Subject to the privacy rights of Section 7-32 of this article and to federal and state laws and regulations, the City shall have the right, upon reasonable request, to inspect at any time during normal business hours all books, records, maps, plans, income tax returns,

financial statements, service complaint logs, performance test results and other like materials of the grantee which relate to the operation of the cable system. Subject to applicable protection for trade secrets, access to the aforementioned records shall not be denied by the grantee on the basis that the records contain proprietary information. The inspection under this subsection shall be limited to determining a grantee's compliance with its obligations under this article and a franchise.

(g) All records and reports submitted to the City under this section shall be available for public inspection in the City Clerk's office during normal business hours except to the extent such records and reports are entitled to be withheld from public disclosure under applicable law.

(h) Willful refusal, failure, or neglect of the grantee, or repeated failures to provide the information or documents required under this chapter or a franchise after 30 days' notice by the City of such willful refusal, failure, or neglect, shall be deemed a material breach of the franchise, and shall subject the grantee to all penalties and remedies, legal or equitable, which are available to the City under the franchise or the ordinance.

(i) Any material, false or misleading statement or representation knowingly made by the grantee in any report required under the franchise shall be deemed a material breach of the franchise, and shall subject the grantee to all penalties and remedies, legal or equitable, which are available to the City.

Sec. 7-22. Litigation. [Ord. No. 1230, 12-16-1998; Ord. No. 1285, 10-4-2000]

A grantee shall give the City notice of any litigation or administrative proceedings brought against it directly or indirectly related to its construction, rebuild, repair or operation of a cable system under a franchise. A grantee agrees not to oppose intervention by the City in any suit or proceeding. A grantee agrees to abide by all provisions of this article and its franchise and further agrees that it will not at any future time set up as against the City any claim that the provisions of this chapter or its franchise are unreasonable, arbitrary, or void.

Sec. 7-23. through Sec. 7-26. (Reserved)[7]

Sec. 7-27. Removal. [Ord. No. 1230, 12-16-1998; Ord. No. 1285, 10-4-2000]

(a) Upon expiration or revocation of a franchise, if the franchise is not renewed and if neither the City nor an assignee purchase the cable system, the grantee may remove any underground cable from the streets which has been installed in such a manner that it can be removed without trenching or other opening of the streets along the extension of cable to be removed. The grantee shall not remove any underground cable or conduit which requires trenching or other opening of the streets along the extension of cable to be removed, except as hereinafter provided. The grantee shall remove, at its sole cost and expense, any underground cable or conduit by trenching or opening of the streets along the extension thereof or otherwise which is ordered to be removed by the City

7. **Editor's Note: Former Sections 7-23 through 7-26, which pertained to transfer of rights; construction and performance bond; review, renewal, termination and cancellation; and purchase option, adopted 12-16-1998 by Ord. No. 1230, as amended 10-4-2000 by Ord. No. 1285, were repealed 5-16-2012 by Ord. No. 1587.**

based upon a determination, in the sole discretion of the City, that removal is required in order to eliminate or prevent a hazardous condition or promote future utilization of the streets for public purposes. Any order by the City to remove cable or conduit shall be mailed to the grantee not later than 30 calendar days following the date of expiration or revocation of the franchise. A grantee shall file written notice with the City Clerk not later than 30 calendar days following the date of expiration or revocation of the franchise of its intention to remove cable, the cable intended to be removed and a schedule for removal by location. The schedule and timing of removal shall be subject to approval and regulation by the City. Removal shall be completed not later than 12 months following the date of expiration of the franchise. Underground cable and conduit in the streets which is not removed shall be deemed abandoned and at its sole option title thereto may be vested in the City.

(b) Upon expiration or revocation of a franchise, if the franchise is not renewed and if neither the City nor an assignee purchases the system, the grantee, at its sole expense, shall, unless relieved of the obligation by the City, remove from the streets all above ground elements of the cable service system, including but not limited to amplifier boxes, pedestal mounted terminal boxes, and cable attached to or suspended from poles, which are not purchased by the City or its assignee.

(c) The grantee shall apply for and obtain such encroachment permits, licenses, authorizations or other approvals and pay such fees and deposit such security as required by applicable ordinance of the City, shall conduct and complete the work of removal in compliance with all such applicable ordinances, and shall restore the streets to the same condition they were in before the work of removal commenced. The work of removal shall be completed not later than 12 months following expiration of the franchise.

(d) In the event a grantee seeks renewal of a franchise, the obligations under this Section 7-27 shall apply only after a final decision on nonrenewal and exhaustion of appeals.

(e) The obligations under this Section 7-27 shall not apply until after a grantee satisfies the continuity of service requirements under Section 7-28.

Sec. 7-28. Continuity of service. [Ord. No. 1230, 12-16-1998; Ord. No. 1285, 10-4-2000; Ord. No. 1586, 5-16-1912]

It shall be the right of all subscribers to receive all available services insofar as their financial and other obligations to the grantee are honored.

Sec. 7-29. (Reserved)[8]

8. Editor's Note: Former Section 7-29, which pertained to guaranty of parent, adopted 12-16-1998 by Ord. No. 1230, as amended 10-4-2000 by Ord. No. 1285, was repealed 5-16-2012 by Ord. No. 1587.

Sec. 7-30. Acceptance of agreement and incorporation of application and article by reference. [Ord. No. 1230, 12-16-1998; Ord. No. 1285, 10-4-2000]

Upon execution of a franchise by grantee, the grantee agrees to be bound [by] all of its terms and conditions and accepts unconditionally the franchise and promises to comply with and abide by all of their terms, provisions and conditions. The grantee also agrees to provide all services set forth in its application and proposal, to provide cable service within the confines of the City of Holland and, by its acceptance of the franchise, the grantee specifically grants and agrees that its application and proposal is thereby incorporated by reference and made a part of this agreement. In addition, the grantee specifically agrees that this article of the City of Holland is incorporated by reference and made a part of the franchise.

Sec. 7-31. Severability. [Ord. No. 1230, 12-16-1998; Ord. No. 1285, 10-4-2000]

If any section, subsection, sentence, clause, phrase or word of the franchise or this article is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof. If a material provision of a franchise is affected by action of a court or of the state or federal government, the City and the grantee may modify any such provisions to such reasonable extent as may be necessary to carry out the full intent and purpose of the franchise.

Sec. 7-32. Right of privacy. [Ord. No. 1230, 12-16-1998; Ord. No. 1285, 10-4-2000]

A grantee shall at all times comply with the applicable provisions of 47 U.S.C. § 551.

Sec. 7-33. (Reserved)[9]

Sec. 7-34. Tampering with cable equipment; penalty. [Ord. No. 1230, 12-16-1998; Ord. No. 1285, 10-4-2000]

(a) A person who willfully or maliciously damages, or causes to be damaged, any wire, cable, conduit, apparatus or equipment of the grantee, or who commits any act with intent to cause damage to any wire, cable, conduit, apparatus or equipment of the grantee, or who taps, tampers with, or connects any wire or devise to a wire, cable, conduit or equipment of the grantee with intent to obtain a signal or impulse therefrom without authorization of the grantee, shall be guilty of a misdemeanor.

(b) This section shall not prevent the grantee from removing, disconnecting or otherwise rendering inoperable any of the grantee's apparatus or equipment attached or in any way connected to such person's facilities, if done for reasonable cause.

(c) The prohibitions, penalties and remedies set forth in this section are in addition to the penalties and remedies for theft of cable service provided by federal and state law.

9. Editor's Note: Former Section 7-33, which pertained to rights of tenant resident, adopted 12-16-1998 by Ord. No. Ord. No. 1230, as amended 10-4-2000 by Ord. No. 1285, was repealed 5-16-2012 by Ord. No. 1587.

Sec. 7-35. Agent for service of process. [Ord. No. 1230, 12-16-1998; Ord. No. 1285, 10-4-2000; 1-17-2018 by Ord. No. 1708]

A grantee shall appoint or designate an agent in Michigan for service of any legal or administrative process, which may be the resident agent designated by the grantee with the Michigan Department of Licensing and Regulatory Affairs or the Department's successor. A change of the agent shall not be effective with respect to the City until written notice is received by the City. Acceptance of a franchise or renewal shall be deemed consent to service of legal or administrative process by certified mail, postage prepaid and return receipt requested, addressed to the agent.

Sec. 7-36. Penalty. [Ord. No. 1230, 12-16-1998; Ord. No. 1285, 10-4-2000; Ord. No. 1586, 5-16-2012]

Violation of Sections 7-5 or 7-34 of this article shall be deemed a misdemeanor punishable as provided in Section 1-10 of the Holland City Code.

Sec. 7-37. Applicability to existing franchise. [Ord. No. 1230, 12-16-1998; Ord. No. 1285, 10-4-2000; Ord. No. 1586, 5-16-2012]

Unless otherwise expressly set forth in a franchise, the provisions of this article shall apply to any franchise granted or renewed on, before or after the effective date of this article [June 6, 2012].

Sec. 7-38. Applicability to open video systems. [Ord. No. 1230, 12-16-1998; Ord. No. 1285, 10-4-2000]

The provisions of this article shall not apply to operators of an open video system as defined by the Act except that such an operator shall be subject to a fee in lieu of a franchise fee in an amount equal to the same rate paid by the operator of a cable system based on the open video system's gross revenues. An operator of an open video system shall enter into an agreement with the City providing for such fee and such other matters as the City may require, to the extent allowed by law, for use of City property, easements and public rights-of-way.

Sec. 7-39. (Reserved)

ARTICLE II

Telecommunications/Right-of-Way Ordinance[10]

Sec. 7-40. Purpose. [Ord. No. 1351, 11-6-2002[11]]

The purposes of this article are to regulate access to and ongoing use of public rights-of-way by telecommunications providers for their telecommunications facilities while protecting the public health, safety, and welfare and exercising reasonable control of the public rights-of-way in compliance with the Metropolitan Extension Telecommunications Rights-of-Way Oversight Act (Act No. 48 of the Public Acts of 2002) ("Act") and other applicable law, and to ensure that the City qualifies for distributions under the Act by modifying the fees charged to providers and complying with the Act.

Sec. 7-41. Conflict. [Ord. No. 1351, 11-6-2002]

Nothing in this article shall be construed in such a manner as to conflict with the Act or other applicable law.

Sec. 7-42. Terms defined. [Ord. No. 1351, 11-6-2002; 1-17-2018 by Ord. No. 1708]

(a) The terms used in this article shall have the following meanings:

ACT — The Metropolitan Extension Telecommunications Rights-of-Way Oversight Act (Act No. 48 of the Public Acts of 2002),[12] as amended from time to time.

CITY — The City of Holland.

CITY COUNCIL — The City Council of the City of Holland 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.

PERMIT — A nonexclusive permit issued pursuant to the Act and this article to a telecommunications provider to use the public rights-of-way in the City for its telecommunications facilities.

(b) All other terms used in this article shall have the same meanings as defined or as provided in the Act, including without limitation the following:

AUTHORITY — The Local Community Stabilization Authority referenced in § 3 of the Act.

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10. Editor's Note: Ordinance No. 1351, adopted 11-6-2002, repealed Art. II, §§ 7-40 through 7-43, and enacted new provisions designated as Art. III, §§ 7-40 through 7-62. In order to maintain the continuity of numbering, said provisions have been redesignated as Art. II, at the discretion of the editor. Former Art. II pertained to fiber optics pole attachment and right-of-way installation policy, and derived from Ord. No. 1230, adopted 12-12-1998.

11. Editor's Note: This ordinance also repealed former Art. II, pertaining to fiber optics pole attachment and right-of-way installation policy, adopted 12-16-1998 by Ord. No. 1230, and enacted new provisions as Art. III. Said Art. III was redesignated as Art. II to maintain the organizational structure of the Code.

12. Editor's Note: See MCLA § 484.3101 et seq.

MPSC — The Michigan Public Service Commission in the Michigan Department of Licensing and Regulatory Affairs, and shall have the same meaning as the term "Commission" in the Act.

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 — 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 U.S.C. § 332 and further defined as commercial mobile radio service in 47 CFR 20.3, and service provided by any wireless, two-way communication device.

TELECOMMUNICATIONS PROVIDER, PROVIDER and TELECOMMUNICATIONS SERVICES — Those terms as defined in § 102 of the Michigan Telecommunications Act, 1991 PA 179, MCLA § 484.2102. "Telecommunications 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 U.S.C. § 332 and further defined as commercial mobile radio service in 47 CFR 20.3, or service provided by any wireless, two-way communication device. For the purpose of the Act and this article 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.

Sec. 7-43. Permit required. [Ord. No. 1351, 11-6-2002]

(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 article.

(b) Application. Telecommunications providers shall apply for a permit on an application form approved by the MPSC in accordance with Section 6(1) of the Act. A telecommunications provider shall file one copy of the application with the City Clerk, one copy with the City Manager, and one copy with the City Attorney. Upon receipt, the City Clerk shall make additional copies of the application and distribute a copy to the Holland Board of Public Works, the Transportation Department, and such other

departments as the City Manager may deem appropriate. Applications shall be complete and include all information required by the Act, including without limitation a route map showing the location of the provider's existing and proposed facilities in accordance with Section 6(5) of the Act.

(c) Confidential information. If a telecommunications provider claims that any portion of the route maps submitted by it as part of its application contain trade secret, proprietary, or confidential information, which is exempt from the Freedom of Information Act, 1976 PA 442, MCLA §§ 15.231 to 15.246, pursuant to Section 6(5) of the Act, the telecommunications provider shall prominently so indicate on the face of each map.

(d) Application fee. Except as otherwise provided by the Act, the application shall be accompanied by a one-time nonrefundable 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 applicant shall comply with all such requests in compliance with reasonable deadlines for such additional information established by the City Manager. If the City and the applicant cannot agree on the requirement of additional information requested by the City, the City or the applicant shall notify the MPSC as provided in Section 6(2) of the Act.

(f) Previously issued permits. Pursuant to Section 5(1) of the Act, authorizations or permits previously issued by the City under Section 251 of the Michigan Telecommunications Act, 1991 PA 179, MCLA § 484.2251, and authorizations or permits issued by the City to telecommunications providers prior to the 1995 enactment of Section 251 of the Michigan Telecommunications Act but after 1985 shall satisfy the permit requirements of this article.

(g) Existing providers. Pursuant to Section 5(3) of the Act, within 180 days from November 1, 2002, the effective date of the Act, a telecommunications provider with facilities located in a public right-of-way in the City as of such date, that has not previously obtained authorization or a permit under Section 251 of the Michigan telecommunications act, 1991 PA 179, MCLA § 484.2251, shall submit to the City an application for a permit in accordance with the requirements of this article. Pursuant to Section 5(3) of the Act, a telecommunications provider submitting an application under this subsection is not required to pay the $500 application fee required under Subsection (d) above. A provider under this subsection shall be given up to an additional 180 days to submit the permit application if allowed by the authority, as provided in Section 5(4) of the Act.

Sec. 7-44. Issuance of permit. [Ord. No. 1351, 11-6-2002]

(a) Approval or denial. The authority to approve or deny an application for a permit is hereby delegated to the City Manager. Pursuant to Section 15(3) of the Act, the City Manager shall approve or deny an application for a permit within 45 days from the date a telecommunications provider files an application for a permit under Section 7-43(b) of this article for access to a public right-of-way within the City. The report of the City Manager approving or denying the permit shall be filed with the City Council and the

Holland Board of Public Works. Pursuant to Section 6(6) of the Act, the City Manager shall notify the MPSC when the City Manager has granted or denied a permit, including information regarding the date on which the application was filed and the date on which permit was granted or denied. The City Manager shall not unreasonably deny an application for a permit.

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

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

(d) Bond requirement. Pursuant to Section 15(3) of the Act, and without limitation on Subsection (c) above, the City Manager may require that a bond be posted by the telecommunications provider as a condition of the permit. If a bond is required, it shall not exceed the reasonable cost to ensure that the public right-of-way is returned to its original condition during and after the telecommunications provider's access and use.

Sec. 7-45. Construction/engineering permit. [Ord. No. 1351, 11-6-2002]

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 the ordinance code of the City, as amended, for construction within the public rights-of-way. No fee shall be charged for such a construction or engineering permit.

Sec. 7-46. Conduit or utility poles. [Ord. No. 1351, 11-6-2002]

Pursuant to Section 4(3) of the Act, obtaining a permit or paying the fees required under the Act or under this article does not give a telecommunications provider a right to use conduit or utility poles of the City or the Holland Board of Public Works.

Sec. 7-47. Route maps. [Ord. No. 1351, 11-6-2002]

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

Sec. 7-48. Repair of damage. [Ord. No. 1351, 11-6-2002]

Pursuant to Section 15(5) of the Act, a telecommunications provider undertaking an excavation or construction or installing telecommunications facilities within a public right-of-way or temporarily obstructing a public right-of-way in the City, as authorized by a permit, shall promptly repair all damage done to the street surface and all installations under, over,

below, or within the public right-of-way and shall promptly restore the public right-of-way to its preexisting condition.

Sec. 7-49. Establishment and payment of maintenance fee. [Ord. No. 1351, 11-6-2002]

In addition to the nonrefundable application fee paid to the City set forth in Subsection 7-43(d) above, a telecommunications provider with telecommunications facilities in the City's public rights-of-way shall pay an annual maintenance fee to the authority pursuant to Section 8 of the Act.

Sec. 7-50. Modification of existing fees. [Ord. No. 1351, 11-6-2002]

In compliance with the requirements of Section 13(1) of the Act, the City hereby modifies, to the extent necessary, any fees charged to telecommunications providers after November 1, 2002, the effective date of the Act, relating to access and usage of the public rights-of-way, to an amount not exceeding the amounts of fees and charges required under the Act, which shall be paid to the authority. In compliance with the requirements of Section 13(4) of the Act, the City also hereby approves modification of the fees of providers with telecommunication facilities in public rights-of-way within the City's boundaries, so that those providers pay only those fees required under Section 8 of the Act. The City shall provide each telecommunications provider affected by the fee with a copy of this article, in compliance with the requirement of Section 13(4) of the Act. To the extent any fees are charged telecommunications providers in excess of the amounts permitted under the Act, or which are otherwise inconsistent with the Act, such imposition is hereby declared to be contrary to the City's policy and intent, and upon application by a provider or discovery by the City, shall be promptly refunded as having been charged in error.

Sec. 7-51. Savings clause. [Ord. No. 1351, 11-6-2002]

Pursuant to Section 13(5) of the Act, if Section 8 of the Act is found to be invalid or unconstitutional, the modification of fees under Section 7-50 above shall be void from the date the modification was made.

Sec. 7-52. Use of funds. [Ord. No. 1351, 11-6-2002]

Pursuant Section 10(4) of the Act, all amounts received by the City from the authority shall be used by the City solely for rights-of-way related purposes, in conformance with that requirement, all funds received by the City from the authority shall be deposited into the major street fund and/or the local street fund maintained by the City under Act No. 51 of the Public Acts of 1951.[13]

Sec. 7-53. Annual report. [Ord. No. 1351, 11-6-2002]

Pursuant to Section 10(5) of the Act, the City Manager shall file an annual report with the authority on the use and disposition of funds annually distributed by the authority.

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13. Editor's Note: See MCLA § 247.651 et seq.

Sec. 7-54. Cable television operators. [Ord. No. 1351, 11-6-2002]

Pursuant to Section 13(6) of the Act, the City shall not hold a cable television operator in default or seek any remedy for its failure to satisfy an obligation, if any, to pay after November 1, 2002, the effective date of this Act, a franchise fee or similar fee on that portion of gross revenues from charges the cable operator received for cable modem services provided through broadband internet transport access services.

Sec. 7-55. Existing rights. [Ord. No. 1351, 11-6-2002]

Pursuant to Section 4(2) of the Act, except as expressly provided herein with respect to fees, this article 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.

Sec. 7-56. Compliance. [Ord. No. 1351, 11-6-2002]

The City hereby declares that its policy and intent in adopting this article is to fully comply with the requirements of the Act, and the provisions hereof should be construed in such a manner as to achieve that purpose. The City shall comply in all respects with the requirements of the Act, including but not limited to the following:

(a) Exempting certain route maps from the Freedom of Information Act, 1976 PA 442, MCLA §§ 15.231 to 15.246, as provided in Section 7-43(c) of this article;

(b) Allowing certain previously issued permits to satisfy the permit requirements hereof, in accordance with Section 7-43(f) of this article;

(c) Allowing existing providers additional time in which to submit an application for a permit, and excusing such providers from the $500 application fee, in accordance with Section 7-43(g) of this article;

(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 Section 7-44(a) of this article;

(e) Notifying the MPSC when the City has granted or denied a permit, in accordance with Section 7-44(a) of this article;

(f) Not unreasonably denying an application for a permit, in accordance with Section 7-44(a) of this article;

(g) Issuing a permit in the form approved by the MPSC, with or without additional or different permit terms, as provided in Section 7-44(b) of this article;

(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 Section 7-44(c) of this article;

(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 Section 7-44(d) of this article;

(j) Not charging any telecommunications providers any additional fees for construction or engineering permits, in accordance with Section 7-45 of this article;

(k) Providing each telecommunications provider affected by the City's right-of-way fees with a copy of this article, in accordance with Section 7-50 of this article;

(l) Submitting an annual report to the authority, in accordance with Section 7-53 of this article; and

(m) Not holding a cable television operator in default for a failure to pay certain franchise fees, in accordance with Section 7-54 of this article.

Sec. 7-57. Reservation of police powers. [Ord. No. 1351, 11-6-2002]

Pursuant to Section 15(2) of the Act, this article shall not limit the City's right to review and approve a telecommunication provider's access to and ongoing use of a public right-of-way or limit the City's authority to ensure and protect the health, safety, and welfare of the public.

Sec. 7-58. Severability. [Ord. No. 1351, 11-6-2002]

The various parts, sentences, paragraphs, sections, and clauses of this ordinance are hereby declared to be severable. If any part, sentence, paragraph, section, or clause of this ordinance is adjudged unconstitutional or invalid by a court or administrative agency of competent jurisdiction, the unconstitutionality or invalidity shall not affect the constitutionality or validity of any remaining provisions of this ordinance.

Sec. 7-59. Authorized City officials. [Ord. No. 1351, 11-6-2002]

The City Manager or his or her designee is hereby designated as the authorized City official to issue municipal civil infraction citations (directing alleged violators to appear in court) or municipal civil infraction violation notices (directing alleged violators to appear at the Municipal Ordinance Violations Bureau) for violations under this article as provided by the City Code.

Sec. 7-60. Violations. [Ord. No. 1351, 11-6-2002]

A violation of this article 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 article or a permit.

Sec. 7-61. Repealer. [Ord. No. 1351, 11-6-2002]

(a) All ordinances and portions of ordinances inconsistent with this ordinance are hereby repealed.

(b) Article II of Chapter 7 (Sections 7-40 through 7-43, adopted by Ord. No. 1230) is hereby repealed.

Sec. 7-62. Effective date. [Ord. No. 1351, 11-6-2002]

This ordinance shall take effect on or before November 1, 2002.

Sec. 7-62.1. Small cell wireless facilities. [Added 6-5-2019 by Ord. No. 1769]

(a) Definitions.

(1) For purposes of this section, the following words, terms, and phrases shall be defined as follows:

ACT — Public Act 365 of 2018, as amended, the Small Wireless Communications Facilities Deployment Act.[14]

CITY MANAGER — The City Manager or the City Manager's designee.

CO-LOCATE — To install, mount, maintain, modify, operate, or replace wireless facilities on or adjacent to a wireless support structure or utility pole. "Co-location" has a corresponding meaning. Co-locate does not include make-ready work or the installation of a new utility pole or new wireless support structure.

PUBLIC RIGHT-OF-WAY or ROW — The area on, below, or above a public roadway, highway, street, alley, bridge, sidewalk, or utility easement dedicated for compatible uses. Public right-of-way does not include any of the following:

a. A private right-of-way.

b. A limited access highway.

c. Land owned or controlled by a railroad as defined in § 109 of the Railroad Code of 1993, 1993 PA 354, MCLA § 462.109.

d. Railroad infrastructure.

SMALL CELL WIRELESS FACILITY — A wireless facility that meets both of the following requirements:

a. Each antenna is located inside an enclosure of not more than six cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements would fit within an imaginary enclosure of not more than six cubic feet.

b. All other wireless equipment associated with the facility is cumulatively not more than 25 cubic feet in volume. The following types of associated ancillary equipment are not included in the calculation of equipment volume: electric meters, concealment elements, telecommunications demarcation

14. Editor's Note: See MCLA § 460.1301 et seq.

boxes, grounding equipment, power transfer switches, cut-off switches, and vertical cable runs for the connection of power and other services.

UTILITY POLE — A pole or similar structure that is or may be used in whole or in part for cable or wireline communications service, electric distribution, lighting, traffic control, signage, or a similar function, or a pole or similar structure that meets the height requirements in Section 13(5) of the Act and is designed to support small cell wireless facilities. Utility pole does not include a sign pole less than 15 feet in height above ground.

WIRELESS FACILITY — Equipment at a fixed location that enables the provision of wireless services between user equipment and a communications network, including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration. Wireless facility includes a small cell wireless facility. Wireless facility does not include any of the following:

a. The structure or improvements on, under, or within which the equipment is co-located.

b. A wireline backhaul facility.

c. Coaxial or fiber-optic cable between utility poles or wireless support structures or that otherwise is not immediately adjacent to or directly associated with a particular antenna.

WIRELESS INFRASTRUCTURE PROVIDER — Any person, including a person authorized to provide telecommunications services in this state but not including a wireless services provider, that builds or installs wireless communication transmission equipment, wireless facilities, or wireless support structures and who, when filing an application with the City Manager under this section, provides written authorization to perform the work on behalf of a wireless services provider.

WIRELESS PROVIDER — A wireless infrastructure provider or a wireless services provider. Wireless provider does not include an investor-owned utility whose rates are regulated by the MPSC.

WIRELESS SERVICES — Any services provided using permitted or unpermitted spectrum, including the use of Wi-Fi, whether at a fixed location or mobile.

WIRELESS SERVICES PROVIDER — A person that provides wireless services.

WIRELESS SUPPORT STRUCTURE — A freestanding structure designed to support or capable of supporting small cell wireless facilities. Wireless support structure does not include a utility pole.

(2) All other terms and phrases used herein shall be defined consistent with the Act.

(b) Permit required. Except for those activities exempt under MCLA § 460.1315 (5), a wireless provider may not co-locate a small cell wireless facility or install, modify, or replace a utility pole or wireless support structure on which a small cell wireless facility will be co-located within the public right-of-way without first applying for and receiving a small cell wireless permit from the City Manager in a form and subject to

such terms and conditions as are acceptable to the City Manager and a pole attachment agreement with the pole owner.

(c) Permitting process. The processing of an application for a permit under this section is subject to all of the following:

(1) An application in such form as prepared by the City Manager shall be completed and submitted as set forth in this section.

(2) The City Manager may require an applicant to provide information and documentation to enable the City Manager to make a compliance determination with regard to the criteria in this section involving, without limitation, Subsection (d)(3). The City Manager may also require a certificate of compliance with FCC rules related to radio frequency emissions from a small cell wireless facility.

(3) The City Manager may require an applicant to attest that the small cell wireless facilities will be operational for use by a wireless services provider within one year after the permit issuance date, unless the City Manager and the applicant agree to extend this period or delay is caused by lack of commercial power or communications transport facilities to the site.

(4) An applicant may, at the applicant's discretion, file a consolidated application and receive a single permit for the co-location of up to 20 small cell wireless facilities within the City Manager. The small cell wireless facilities within a consolidated application must consist of substantially similar equipment and be placed on similar types of utility poles or wireless support structures. The City Manager may approve a permit for one or more small cell wireless facilities included in a consolidated application and deny a permit for the remaining small cell facilities.

(5) The application for a permit under this section shall be accompanied by an application fee as set by resolution of the City Council from time to time.

(6) The permit application shall be accompanied by a map(s) for any proposed small cell wireless facilities which shall be legible, to scale, labeled with streets, and contain sufficient detail to precisely identify the proposed small cell wireless facilities' locations and surroundings. Where applicable, the required map(s) shall include and identify any requested pole height(s), all attachments and detailed drawings of any attachment.

(7) The permittee shall field-stake all proposed locations for small cell wireless facilities which shall be subject to the advance approval by the City or the Michigan Department of Transportation, as applicable. All approved small cell wireless facilities' locations shall be on a per pole/equipment/other basis.

(8) Once precise locations have been approved, the permittee shall provide latitude and longitude coordinates for the small cell wireless facilities' locations to the City Manager's Engineering Department as well as detailed as-built drawings within 90 days of the completion of installation.

(9) The permittee shall be responsible to obtain such other pole attachment agreements, permits and approvals as otherwise required by law.

(d) Determination of application.

(1) Within 25 days after receiving an application, the City Manager shall notify the applicant in writing whether the application is complete. If the application is incomplete, the notice shall clearly and specifically identify all missing documents or information.

(2) Upon receipt of a complete application, the City Manager shall approve or deny the application and notify the applicant in writing within the following period of time after the completed application is received:

a. For an application for the co-location of small cell wireless facilities on a utility pole, 60 days, subject to the following adjustments:

1. Add 15 days if an application from another wireless provider was received within one week of the application in question.

2. Add 15 days if, before the otherwise applicable sixty-day or seventy-five-day time period elapses, the City Manager notifies the applicant in writing that an extension is needed and the reasons for the extension.

b. For an application for a new or replacement utility pole that meets the height requirements of Section 13(5)(a) of the Act and associated small cell facility, 90 days, subject to the following adjustments:

1. Add 15 days if an application from another wireless provider was received within one week of the application in question.

2. Add 15 days if, before the otherwise applicable ninety-day or 105-day time period elapses, the City Manager notifies the applicant in writing that an extension is needed and the reasons for the extension.

c. If the City Manager fails to comply with this subsection, an application otherwise complete is considered to be approved subject to the condition that the applicant provide the City Manager not less than seven days' advance written notice that the applicant will be proceeding with the work pursuant to this automatic approval, and the applicant shall be responsible to comply with all provisions of this section and the Act.

d. The City Manager and an applicant may extend a time period under this subsection by mutual agreement.

(3) The City Manager may deny a completed application for a proposed co-location of a small cell wireless facility or installation, modification, or replacement of a utility pole that meets the height requirements in Section 13(5)(a) of the Act if the proposed activity would do any of the following:

a. Materially interfere with the safe operation of traffic control equipment.

b. Materially interfere with sight lines or clear zones for transportation or pedestrians.

c. Materially interfere with compliance with the Americans with Disabilities Act of 1990, Public Law 101-336, or similar federal, state, or local standards regarding pedestrian access or movement.

d. Materially interfere with maintenance or full unobstructed use of public utility infrastructure under the jurisdiction of the City Manager.

e. With respect to drainage infrastructure under the jurisdiction of the City Manager, either of the following:

1. Materially interfere with maintenance or full unobstructed use of the drainage infrastructure as it was originally designed.

2. Not be located a reasonable distance from the drainage infrastructure to ensure maintenance under the Drain Code of 1956, 1956 PA 40, MCLA §§ 280.1 to 280.630, and access to the drainage infrastructure.

f. Fail to comply with reasonable, nondiscriminatory, written spacing requirements of general applicability adopted by the Holland Board of Public Works that apply to the location of ground-mounted equipment and new utility poles and that do not prevent a wireless provider from serving any location.

g. Fail to comply with applicable codes.

h. Fail to comply with any provision of this section.

i. Fail to meet reasonable, objective, written disguise, or concealment criteria for small cell wireless facilities applicable in an historic district or other designated area, as specified in an ordinance or otherwise and nondiscriminatorily applied to all other occupants of the ROW, including electric utilities, incumbent or competitive local exchange carriers, fiber providers, cable television operators, and the City.

(4) Within one year after a permit is granted, a wireless provider shall complete co-location of a small cell wireless facility that is to be operational for use by a wireless services provider, unless the City Manager and the applicant agree to extend this period or the delay is caused by the lack of commercial power or communications facilities at the site. If the wireless provider fails to complete the co-location within the applicable time, the permit is void, and the wireless provider may reapply for a permit.

(5) Approval of an application authorizes the wireless provider to do both of the following:

a. Undertake the installation or co-location.

b. Subject to relocation requirements that apply to similarly situated users of the ROW and the applicant's right to terminate at any time, maintain the small cell wireless facilities and any associated utility poles or wireless support structures covered by the permit for so long as the site is in use and in compliance with the initial permit under this section.

(6) The City Manager may propose an alternate location within the ROW or on property or structures owned or controlled by the City within 75 feet of the proposed location to either place the new utility pole or co-locate on an existing structure. The applicant shall use the alternate location if, as determined by the applicant, the applicant has the right to do so on reasonable terms and conditions and the alternate location does not impose unreasonable technical limits or significant additional costs. The City Manager may request written confirmation of any decision rendered by the applicant under this subsection and the specific basis for the same.

(7) Nothing herein shall prohibit the City Manager from requiring a separate ROW access permit for work that will unreasonably affect traffic patterns or obstruct vehicular or pedestrian traffic in the ROW.

(8) As a condition of the issuance of a permit, the applicant shall obtain and maintain a bond, in the amount of $1,000 per small cell wireless facility, in a form reasonably satisfactory to the City Manager, for the small cell wireless facilities as applicable to similarly situated users of the ROW for one or more of the following purposes:

a. To provide for the removal of abandoned or improperly maintained small cell wireless facilities, including those that an authority determines should be removed to protect public health, safety, or welfare.

b. To repair the ROW as provided under the Act.

c. To recoup rates or fees that have not been paid by a wireless provider in more than 12 months, if the wireless provider has received sixty-day advance notice from the authority of the noncompliance.

(9) It is a condition of any permit issued under this section that:

a. A wireless provider, with respect to a small cell wireless facility, a wireless support structure, or a utility pole, shall defend, indemnify, and hold harmless the City and its officers, agents, and employees against any claims, demands, damages, lawsuits, judgments, costs, liens, losses, expenses, and attorney fees resulting from the installation, construction, repair, replacement, operation, or maintenance of any wireless facilities, wireless support structures, or utility poles to the extent caused by the applicant, its contractors, its subcontractors, and the officers, employees, or agents of any of these. A wireless provider has no obligation to defend, indemnify, or hold harmless the City, or the officers, agents, or employees of the City against any liabilities or losses due to or caused by the sole negligence of the City or its officers, agents, or employees.

b. A wireless provider, with respect to a small cell wireless facility, a wireless support structure, or a utility pole, shall obtain insurance, in an amount and of a type reasonably satisfactory to the City Manager, naming the City and its officers, agents, and employees as additional insureds against any claims, demands, damages, lawsuits, judgments, costs, liens, losses, expenses, and attorney fees. A wireless provider may meet all or a portion of the City's insurance coverage and limit requirements by self-insurance.

To the extent it self-insures, a wireless provider is not required to name additional insureds under this subsection. To the extent a wireless provider elects to self-insure, the wireless provider shall provide to the City Manager evidence demonstrating, to the City Manager's satisfaction, the wireless provider's financial ability to meet the City's insurance coverage and limit requirements.

c. It is the policy of the City to encourage the co-location of small cell wireless facilities first outside of public rights-of-way and, secondarily, within the public rights-of-way. The co-location of uses shall be a condition of approval of any permit granted for a new wireless support structure or utility pole in the public right-of-way; provided, however, that the co-location requirement may be waived if the pole or support structure is disguised or concealed so as to blend with the immediate environment (e.g., streetlights, power poles, etc.).

d. The wireless provider shall install signs on equipment, at least 12 feet to 15 feet above ground, with warnings of radio frequency safety hazards consistent with the FCC rules and industry standards.

e. Installations shall be compliant with the National Electrical Safety Code electrical and telecommunications standards.

f. The wireless provider provides the City with an RF study for each location and provides safety training sessions for City and utility employees who will work on or within vicinity of equipment.

g. The wireless provider provides the name and emergency contact information for the wireless operator's contact person.

h. The wireless provider allows the Holland Board of Public Works or City to turn off any AC or DC electric supply in emergencies.

(e) METRO Act permit. No person shall install or operate "telecommunications facilities," as defined in the Metropolitan Extension Telecommunications Rights-Of-Way Oversight Act, Act No. 48 of the Public Acts of 2002, as amended,[15] (the "Act") without first obtaining a permit in accordance with that Act from the City, including any part of a small cell wireless facility, utility pole, or wireless support structure constituting telecommunication facilities.

(f) Design parameters. The following minimal design parameters shall apply to small cell wireless facilities, utility poles, and wireless support structures in the City's public rights-of-way:

(1) A wireless provider may, as a permitted use not subject to zoning review or approval, but still subject to approval by the City Manager under this section, co-locate small cell wireless facilities and construct, maintain, modify, operate, or replace utility poles in, along, across, upon, and under the ROW consistent with the following:

15. Editor's Note: See MCLA § 484.3101 et seq.

a. A utility pole in the ROW installed or modified on or after the effective date of the Act shall not exceed 40 feet above ground level, unless a taller height is agreed to by the City Manager consistent with all applicable laws.

b. A small cell wireless facility in the ROW installed or modified after the effective date of the Act shall not extend more than five feet above a utility pole or wireless support structure on which the small cell wireless facility is co-located.

c. Such structures and facilities shall be constructed and maintained so as not to obstruct or hinder the usual travel or public safety on the ROW or obstruct the legal use of the City's ROW or uses of the ROW by other utilities and communications service providers.

(2) Any pole installed by a wireless provider shall not be closer than 15 feet to another pole. A pole installed by a wireless provider shall not be taller than existing poles within 300 feet parallel and 20 feet perpendicular to the nearest right-of-way.

(3) An antenna shall not extend more than five feet above a pole.

(4) There shall be no ground-mounted equipment. Equipment mounted on a pole shall not be more than six cubic feet in size.

(5) A wireless provider may co-locate a small cell wireless facility or install, construct, maintain, modify, operate, or replace a utility pole that exceeds the height limits under Subsection(f)(1), or a wireless support structure, in, along, across, upon, and under the ROW only upon issuance of a permit in accordance with this section and upon receiving any zoning approvals required by Chapter 39.

(6) Unless otherwise required by the Federal Communications Commission (FCC), the Federal Aviation Administration (FAA), or applicable codes, the provider's poles shall either maintain a galvanized silver, gray, or concrete finish or, subject to any applicable standards of the FAA, FCC or such codes, be painted a neutral color so as to reduce visual obtrusiveness.

(7) At all pole sites related equipment shall use materials, colors, textures, screening, and landscaping that will blend the facilities to the natural setting and environment to the extent reasonably practical.

(8) All poles shall be similar in style and made of a similar material and color to other poles on the same and adjoining blocks, unless the City Manager approves an alternate design. Disguising or concealing poles is encouraged.

(9) Any such requirements shall not have the effect of prohibiting any wireless provider's technology.

(10) A wireless provider shall comply with any of the City Manager's requirements that prohibit communications service providers from installing structures on or above ground in the ROW in an area designated solely for underground or buried cable and utility facilities if each of the following apply:

a. The Holland Board of Public Works has required all cable and utility facilities, other than poles used for streetlights, traffic signals, or other attachments necessary for public safety, to be placed underground by a date that is not less than 90 days before the submission of the wireless provider's application.

b. The City does not prohibit the replacement of City poles by a wireless provider in the designated area.

(g) Additional design parameters for locations in an historic, residential, or C-3 Central Business District. The following additional design and concealment measures shall apply to the co-location of any small cell wireless facility or utility pole in an historic, residential, or C-3 Central Business District:

(1) Equipment on a supporting structure may not exceed an aggregate width of four feet (centered on pole) and shall be secured a minimum of 10 feet from the ground surface or 18 feet where equipment may overhang the traveled portion of the right-of-way. Ground-level equipment or shelters are not permitted.

(2) Small cell wireless facilities shall be located no closer than 18 inches from an existing sidewalk/face of curb or 18 inches from a proposed future sidewalk/face of curb location.

(3) Unless located on an existing utility pole in the right-of-way, small cell wireless facilities shall be located no closer than 10 feet from any driveway.

(4) Unless located on an existing utility pole in the right-of-way, small cell wireless facilities shall be located in line with a side lot line and not in front of a residence.

(5) Small cell towers shall be disguised or concealed by use of coloring, camouflaging, banner brackets, or other features determined by the City Manager.

(h) Modification of design parameters. Upon the written request of an applicant for a permit, the City Manager may modify or waive the design parameters of Subsection (f)(7) and (8) in its discretion based on its review of factors affecting the public health, safety, and welfare, including, but not limited to, the following: the presence of existing poles or other structures or equipment in the immediate vicinity; the ability to reasonably comply with the design parameters set forth in Subsection (f)(7) and (8); the visual and aesthetic impact of the proposed pole, antenna or facilities on the adjacent area; the existing and planned character of the adjacent area; public comment; the scale and scope of the poles, antennas or facilities relative to the existing character of the area; whether granting the modification will adversely impact public safety; and the recommendations of City Manager and department heads (if any). Following its review, the City Council may grant, deny or grant with conditions a request to modify or waive the design parameters and shall provide its decision and the basis for the same to the applicant in writing. All applications for a waiver or modification of the design parameters as set forth herein shall be addressed in a uniform and nondiscriminatory manner. The applicant shall be responsible to pay all costs of the City associated with the request to modify or waive the design parameters.

(i) Repair of ROW. As a condition to the issuance of a permit under this section, a wireless provider is required to repair all damage to the ROW directly caused by the activities of the wireless provider while occupying, constructing, installing, mounting, maintaining, modifying, operating, or replacing small cell wireless facilities, utility poles, or wireless support structures in the ROW and to return the ROW to its functional equivalent before the damage. If the wireless provider fails to make the repairs required by the City Manager within 60 days after written notice, the City Manager may make those repairs and charge the wireless provider the reasonable, documented cost of the repairs.

(j) Discontinuance of use. Before discontinuing its use of a small cell wireless facility, utility pole, or wireless support structure, a wireless provider shall notify the City Manager in writing. The notice shall specify when and how the wireless provider intends to remove the small cell wireless facility, utility pole, or wireless support structure. The City Manager may impose reasonable and nondiscriminatory requirements and specifications for the wireless provider to return the property to its pre-installation condition. If the wireless provider does not complete the removal within 45 days after the discontinuance of use, the City may complete the removal and assess the costs of removal against the wireless provider. A permit under this section for a small cell wireless facility expires upon removal of the small cell wireless facility.

(k) Revocation of permit. The City Manager may revoke a permit, upon 30 days' notice and an opportunity to cure, if the permitted small cell wireless facilities and any associated utility pole fail to meet the requirements of Subsection (d)(3).

(l) Compliance with applicable law. The permittee shall be responsible to comply with all applicable legal requirements and to obtain any permits or approvals otherwise required by law relative to the installation or operation of small cell wireless facilities in the City's public rights-of-way (e.g., electrical permits). The City Manager, in reviewing and authorizing a permit under the Act and/or a permit referred to in this section, and the permittee, in the establishment and operation of any small cell wireless facilities, shall comply with all applicable federal and state laws.

(m) Fees. Fees for the permits as authorized under the Act shall be as provided for in the Act or those documents and as periodically authorized by resolution of the City Council; provided, however, that for installations of utility poles designed to support small cell wireless facilities or co-locations of small cell wireless facilities installed and operational in the ROW before the effective date of the Act, the fees, rates, and terms of an agreement or ordinance for use of the ROW remain in effect subject to the termination provisions contained in the agreement or ordinance.

ARTICLE III
Municipal Broadband Services

Sec. 7-63. Findings and purpose. [Added 8-2-2017 by Ord. No. 1693]

(a) The City of Holland, acting by and through its Holland Board of Public Works ("HBPW") provides "broadband internet access transport services" as such term is

defined in Act No. 49 of the Public Acts of 2002 (effective November 1, 2002), MCLA § 484.3101, et seq. ("Act").

(b) Before December 31, 2001, the HBPW owned and operated telecommunications facilities within the City of Holland and Holland Township that provided broadband internet access transport service.

(c) The HBPW expanded its delivery of broadband internet access transport services beyond the service territory existing before December 31, 2001, in order to effectuate the purposes of Holland City Charter, the Act, and such other authorized and delegated powers and authority permitted by law.

(d) Prior to November 1, 2005, the HBPW owned and operated telecommunications facilities within other public entity boundaries.

(e) Prior to November 1, 2005, the HBPW and City conducted a cost/benefit analysis ("business plan"), as required by MCLA § 484.3114(b), and public hearings on the HBPW business plan for providing broadband internet access transport services to third parties, and conducted a hearing on the business plan.

(f) The HBPW and City have also secured METRO Act permits (Metropolitan Extension Telecommunications Rights-of-Way Oversight Act, Act No. 48 of the Public Acts of 2002) from the City and neighboring communities in connection with its utilization of public rights-of-way for provision of such third-party services since 2003.

(g) As a consequence of the HBPW's pre-existing telecommunication services and extraterritorial location of such services prior to November 1, 2005, limitations within Michigan's Telecommunications Act, MCLA § 484.2252 restricting extraterritorial services are not applicable to the HBPW and City.

(h) The HBPW has prepared an updated business plan that projects revenue, capital expenses and operating and maintenance expenses for three years for provision of broadband services, consistent with the METRO Act and Uniform Budget and According Act, MCLA § 141.436.

(i) The City Charter, §§ 12.3 and 12.15, reserves to the City the power "to construct, own, operate, improve, enlarge, extend, repair and maintain, either within or without its corporate limits" public utilities.

(j) In order to recognize the value and utility of existing broadband internet access transport services facilities and systems installed and operated by the City of Holland, both within and outside the City, and to promote the public health, safety, morals, general welfare, security, prosperity and contentment of the City and its residents, the City does provide authorization by this article for construction and operation of infrastructure needed to provide broadband services and third-party access to broadband internet access transport services within or without its corporate limits.

Sec. 7-64. Terms defined. [Added 8-2-2017 by Ord. No. 1693]

The terms used in this Article III shall have the same meanings as such terms are defined in Article II of Chapter 7 of the Holland City Ordinances and as otherwise defined by Michigan law.

Sec. 7-65. Approval of business plan. [Added 8-2-2017 by Ord. No. 1693]

In accordance with MCLA § 484.3114, Metropolitan Extension Telecommunications Rights-of-Way Oversight Act, Public Act 48 of 2002, the City has prepared reasonable projections of at least a three-year cost-benefit analysis identifying and disclosing the total projected direct costs of and the revenues to be derived from constructing the telecommunication facilities in providing the broadband services directly and through a broadband internet access transport service to third parties ("business plan").

Sec. 7-66. Operation of broadband internet access service as part of electric utility. [Added 8-2-2017 by Ord. No. 1693]

The City shall operate its broadband services, including but not limited to dark fiber leasing, active Ethernet, shared gigabit, and Internet access for wholesale or retail to commercial or residential customers, as part of its electric utility, operated by the Holland Board of Public Works.

Sec. 7-67. Service types, access restrictions. [Added 8-2-2017 by Ord. No. 1693]

(a) The broadband services shall include, but not be limited to, dark fiber leasing, active Ethernet, shared gigabit, and Internet access for wholesale or retail to commercial or residential customers.

(b) Prior to providing any commercial or residential service to a customer who is not the owner of the property at which new service is being provided, the customer shall obtain, and provide the City with, the property owner's written consent.

(c) No customers shall allow their tenants, licensees or landlord, or other person to use services in any manner inconsistent with the agreed scope of property owner's authorization or the HBPW's terms of service for the account for such services.

(d) No customer shall allow their tenants, licensees, landlord, or other person to use or share their service or passwords in any manner inconsistent with property owner's authorization or the HBPW's terms of service for the account for such services.

(e) No person shall obtain or use commercial or residential service over or through the HBPW's broadband system without the permission of the HBPW and compliance with the HBPW's rules of account.

(f) A violation of this section of this article shall be a violation of the City Code and punishable as a misdemeanor pursuant to Section 1-10 of the Holland 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 section of this article.

Sec. 7-68. Rates and fees. [Added 8-2-2017 by Ord. No. 1693]

(a) User charges shall be levied to defray the costs of capital, operation, maintenance, replacement, and debt retirement of the broadband services.

(b) The City Council of the City shall establish rates for the use of and the connection to broadband services based on the advice and recommendation of the HBPW. Service rates shall be consistent with the requirements of MCLA § 484.3114, as may be amended from time to time.

(c) The City Council of the City shall amend rates from time to time as may be necessary to support continued operation of the broadband services in a manner consistent with the Business Plan and terms of this article.

(d) The City may also adopt charges and fees by resolution which shall include:

(1) Fees for reimbursement of costs of setting up and operating broadband services;

(2) Fees for monitoring, inspection and surveillance procedures including the cost of reviewing monitoring reports;

(3) Fees for permit applications including the cost of processing such applications;

(4) Fees for filing appeals;

(5) Fees for removal of broadband internet access services;

(6) Other fees as the City may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this chapter and are separate from all other fees chargeable by the City.

Sec. 7-69. Compliance with METRO Act. [Added 8-2-2017 by Ord. No. 1693]

The City hereby declares that its policy and intent in adopting this article is to fully comply with the requirements of Metropolitan Extension Telecommunications Rights-of-Way Oversight Act, Public Act 48 of 2002 and Michigan Telecommunications Act, Public Act 179 of 1991.[16] 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 such Acts, and shall not do any of the following:

(a) Adopt an ordinance, rules or a policy that unduly discriminates against another person providing the same service; provided, however, that subject to other requirements of the Metropolitan Extension Telecommunications Rights-of-Way Oversight Act, this subsection shall not be construed as precluding the City from establishing rates different from those of another person providing the same service or providing introductory or special rates.

(b) Employ terms more favorable or less burdensome than those imposed by the City upon other providers of the same service within its jurisdiction concerning access to public rights-of-way.

16. Editor's Note: See MCLA §§ 484.3101 et seq. and 484.2101 et seq., respectively.

(c) Impose or enforce against a provider any local regulation with respect to public rights-of-way that is not also applicable to the City in its provision of a telecommunication service provided through broadband services.

(d) Employ terms more favorable or less burdensome than those imposed by the City upon other providers of the same service within its jurisdiction concerning access to, and rates for, pole attachments.

Sec. 7-70. Severability. [Added 8-2-2017 by Ord. No. 1693]

The various parts, sentences, paragraphs, sections, and clauses of this article are hereby declared to be severable. If any part, sentence, paragraph, section, or clause of this article is adjudged unconstitutional or invalid by a court or administrative agency of competent jurisdiction, the unconstitutionality or invalidity shall not affect the constitutionality or validity of any remaining provisions of this article.

Chapter 8

CEMETERIES

Sec. 8-1. City cemeteries public burying grounds; establishment of private cemeteries prohibited; burials outside cemeteries.

Sec. 8-2. Name of City cemeteries.

Sec. 8-3. Records and plats.

Sec. 8-4. Burials and removals generally.

Sec. 8-5. Burial right and cemetery care certificates—Issuance and form; restriction upon burials in burial plots; rates and charges for rights and services.

Sec. 8-6. Transferability; transfer of rights generally.

Sec. 8-7. Care, maintenance and ornamentation—standards and regulations.

Sec. 8-8. Removal of dilapidated, etc., ornamentation, etc.

Sec. 8-9. Injuring, removing, etc., trees, flowers, monuments, etc.; riding or driving in cemetery.

Sec. 8-9.1. Animals prohibited in cemeteries.

Sec. 8-10. Rules and regulations.

Sec. 8-11. Violations and penalties.

Sec. 8-1. City cemeteries public burying grounds; establishment of private cemeteries prohibited; burials outside cemeteries. [Code 1955, § 5-3.1]

All cemeteries now owned or which may hereafter be acquired by the City are hereby declared to be public burying grounds, and no person or organization of persons shall establish any cemetery within the City. No person shall bury any human body in any place within the City other than in public burying grounds.

Sec. 8-2. Name of City cemeteries. [Code 1955, § 5-3.2]

The two cemeteries now owned by the City shall all be known respectively as "Pilgrim Home Cemetery" and "Graafschaq Cemetery."

Sec. 8-3. Records and plats. [Code 1955, § 5-3.3]

The Superintendent of Parks and Cemeteries shall keep a full and complete record of all lots, graves, lot and grave owners and interments in the cemeteries of the City, and, for such purpose, locations of lots and graves shall be shown on plats by the necessary surveyor's monuments, and by a system of recorded measurements from fixed landmarks, indicating permanently the exact location of lots and graves.

Sec. 8-4. Burials and removals generally. [Code 1955, § 5-3.4; Ord. No. 1316, 9-19-2001]

(a) No person shall bury any body except a human body in any public burying ground.

(b) No person shall bury more than one body in a single grave except; (i) in the case of infants, and then only two infants may be buried in a single grave space; or (ii) except on perimeter lots where space allows, as determined by the Superintendent of Parks and Cemeteries, a person may be allowed to bury one body and one cremains in a single grave.

(c) No person shall bury more than four cremains only in a single grave space.

(d) No person shall bury any body in the public burying grounds without having purchased a burial right and paid in full therefor.

(e) No person shall bury any body in the public burying grounds except in accordance with the state law and applicable state and local ordinances, rules, and regulations.

(f) All graves shall be prepared by the employees of the City.

(g) Funerals, while within the cemetery grounds, shall be under the control of the Superintendent of Parks and Cemeteries, and no burial shall be permitted without a proper burial or transit permit, as provided by the laws of the state.

(h) No change in location of a grave shall be made after a designation of the place of interment by the undertaker in charge, except on request of the owner or undertaker and at the expense of the one making the request. The City shall not be responsible for any mistake in location occasioned by anyone except an employee of the City.

(i) Graves shall not be reopened, except in case of necessity for a proper removal of a body to another location, or upon an order for any investigation provided or permitted by law. Before a permit is authorized for the reopening of a grave, except in case of reopening for an investigation, the one making such request shall exhibit evidence of the right to remove such body for transfer.

Sec. 8-5. Burial right and cemetery care certificates—Issuance and form; restriction upon burials in burial plots; rates and charges for rights and services. [Code 1955, § 5-3.5]

(a) Burial right and cemetery care certificates shall be issued in such form as the City Council shall prescribe.

(b) Burial in any burial plot shall be restricted to the owner of such plot and his or her parents, children and spouse, unless written authorization is obtained from such owner or his or her heirs.

(c) Burial rights in the public burying grounds shall be sold and services shall be paid for at the rates established by resolution of the Council.

Sec. 8-6. Transferability; transfer of rights generally. [Code 1955, § 5-3.6]

Burial right and cemetery care certificates are nontransferable.

During the owner's life, he or she may effect a transfer of his or her rights under such certificates by executing an appropriate instrument of transfer and filing the same with, and

surrendering his or her certificates to, the Superintendent of Parks and Cemeteries, who shall issue a new certificate to the transferee.

Upon notice being given to the Superintendent of Parks and Cemeteries of the owner's demise, upon satisfactory evidence being filed with such Superintendent as to the identity of the devisees or heirs of such owner who are entitled to receive such rights, and upon surrender of the owner's certificates, the Superintendent shall issue new certificates to the persons who are entitled to receive the same.

Sec. 8-7. Care, maintenance and ornamentation—standards and regulations. [Code 1955, § 5-3.7; Ord. No. 845; 1-17-2018 by Ord. No. 1709]

For the care, maintenance and ornamentation of the cemeteries of the City, the standards set forth in Subsections (a) through (j) of this section shall apply.

(a) The City Manager shall establish grade levels at which all graves in a given area shall be kept.

(b) No burial shall be made except in underground containers of construction approved by the City Manager.

(c) The material of and manner of erecting monuments, headstones and markers, the type, location and trimming of trees and shrubs and the manner in which they are planted shall be subject to the approval of the Director of Parks and Recreation.

(d) No person shall erect any enclosure in the nature of a fence, hedge or curbing upon any lot or plot after April 30, 1955.

(e) No trees or shrubs shall be planted or placed in the cemeteries of the City, except by the Director of Parks and Recreation.

(f) The sale price of all lots hereafter sold shall include a specific amount to be invested, the income therefrom to be used solely for the care and maintenance of the cemeteries.

(g) The care and maintenance of lots sold prior to April 30, 1955, may be provided for by an agreement between the City and the lot owner.

(h) Where lot owners have not provided for care by the City, the record owner of one or more lots shall trim, mow, weed and sprinkle such lots in such manner as to maintain such lots in conformity to the general plan of care and maintenance of the cemetery and in conformity with the care of surrounding lots; and in the event the Director of Parks and Recreation shall determine that inadequate care is being given, the City Manager may direct that care thereof shall be undertaken by the Director of Parks and Recreation at the rate of annual care as established by the Council, provided that notice of such care shall be given by registered mail to the owner of record thereof at his or her last known post office address at least 30 days prior to the commencement of such care. In the event that payment is not made for the care thus furnished, or personal care thereof is not resumed by the owner during a period of two years from and after the service of such notice, the purchase price of such lots may be refunded to the record owner thereof, deducting therefrom the cost of care and expense of notice, and the burial rights in the unused lots shall thereupon revert to the City. In the event that notice

cannot be delivered as hereinbefore provided, the provisions of Act No. 46 of the Public Acts of 1931 and any amendment thereto shall govern.

(i) The Director of the Department of Parks and Recreation shall provide water for personal care of lots as provided in Subsection (h) of this section at the rate established by resolution of the City Council, per grave space per annum.

(j) Payment for annual care or water fee shall be made no later than May 1 in each year.

Sec. 8-8. Removal of dilapidated, etc., ornamentation, etc. [Code 1955, § 5-3.9]

Whenever, in the judgment of the Superintendent of Parks and Cemeteries, any tree, plant, shrub or ornamentation of any kind has become unsightly, dangerous or detrimental to the adjacent lot owners, or the public use of the cemetery, the Superintendent may remove the same. Urns and containers so removed may be sold by the Superintendent of Parks and Cemeteries after one year from the date of removal upon 30 days' written notice delivered personally or sent by registered mail to the owner of the lot or plot from which the same were removed, at the last known address of the owner of the lot or plot.

Whenever any marker, headstone or monument has, in the judgment of the Superintendent of Parks and Cemeteries, become unsightly, dangerous or detrimental to adjacent lot owners or the public, the Superintendent may remove the same 30 days after he or she has served personally or mailed a written notice to the last known address of the owner of the lot or plot from which such marker, headstone or monument is to be removed.

Sec. 8-9. Injuring, removing, etc., trees, flowers, monuments, etc.; riding or driving in cemetery. [Code 1955, § 5-3.8]

No person shall cut, remove, injure or carry away any tree, flower or other decorative planting; nor deface, injure, remove or displace any monument, marker or ornamental equipment; nor carry away, remove, destroy or injure any flower pot, vase, flowers or other ornamentation; nor shall any person traverse by mechanical means, or upon any animal, any portion of any City cemetery except upon ways provided for such purpose.

Sec. 8-9.1. Animals prohibited in cemeteries. [Ord. No. 1492, 2-6-2008]

No person shall permit or lead any animal, fowl, or reptile, whether leashed or not, in any cemetery (including any buildings located thereon) owned or maintained by the City.

The prohibition imposed by this section shall not, however, apply to the use of animals by physically handicapped persons for the purpose of assisting such persons.

Sec. 8-10. Rules and regulations. [Code 1955, § 5-3.10]

The Superintendent of Parks and Cemeteries shall make such rules and regulations as shall promote the general objects of this chapter, and for the general improvement of the public burying grounds, subject to the approval of the Council.

Sec. 8-11. Violations and penalties. [Ord. No. 1495, 3-5-2008]

Any person who violates or fails to comply with the provisions of Section 8-9.1 or any of the subsections is responsible for a Class I municipal civil infraction and subject to the civil fines set forth in the schedule of civil fines in Section 2-118 of this Code and any other relief that may be imposed by the court. Each act of violation and each day upon which such violation occurs shall constitute a separate violation.

Chapter 9

ELECTRICITY

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ARTICLE I
In General

Sec. 9-1. Michigan Electrical Code, administration and enforcement. [Ord. No. 1284, 9-20-2000[1]]

Pursuant to the provisions of the Michigan Electrical Code and in accordance with the State Construction Code Act of 1972, Act 230 of the Public Acts of 1972, as amended (MCLA § 125.1501 et seq.), the City of Holland hereby assumes the responsibility for the administration and enforcement of the Michigan Electrical Code throughout its corporate limits.

Sec. 9-2. Violations and penalties. [Ord. No. 1284, 9-20-2000]

A person who violates or fails to comply with the requirements of the electric code of the City is responsible for a Class III municipal civil infraction and subject to the civil fines set forth in the schedule of civil fines in Section 2-118 of this Code and any other relief that may

1. **Editor's Note: This ordinance also repealed former Arts. I and II of this Ch. 9, adopted 3-16-1994 by Ord. No. 1106, as amended 3-6-1996 by Ord. No. 1164 and 11-17-1999 by Ord. No. 1266. Ordinance No. 1284 also renumbered former Sections 9-27 through 9-31 as Sections 9-3 through 9-7, respectively.**

be imposed by the court. Each act of violation and each day upon which such violation occurs shall constitute a separate violation.

ARTICLE II
Lien as Security for Collection of Service Charges

Sec. 9-3. Created. [Ord. No. 800; Ord. No. 1284, 9-20-2000]

Except as otherwise provided or limited by state law, the City shall have as security for the collection of all charges for electric services as authorized by the Revenue Bond Act of 1933, as amended, a lien upon the premises to which such electric services were supplied. Such liens shall become effective immediately upon the distribution or supplying of such electric service or services to such premises. The term "charges for electric service" shall mean the rates, fees, rentals and all other charges for furnishing such service and all repairs, maintenance and alterations of such service which the City determines to be the responsibility of the service customer.

Sec. 9-4. Placement on tax rolls. [Ord. No. 800; Ord. No. 1284, 9-20-2000]

Those charges which are delinquent for three months or more on June 30 of each year shall be reported by the City Auditor to the Council at the first meeting thereof in the month of July. The Council thereupon shall order the publication in a newspaper published in the City of notice to all owners of property within the City that all unpaid electric charges which have remained unpaid for a period of three months or more prior to June 30, which have not been paid by October 1, shall be assessed upon the City's tax roll against the premises to which the electric services were supplied or furnished and that such charges shall be collected in the same manner as the City taxes on such tax roll.

Sec. 9-5. Enforcement. [Ord. No. 800; Ord. No. 1284, 9-20-2000]

All such electric charges which remain unpaid on October 1 shall be transferred to the City's tax roll and assessed against the premises to which the electric service was supplied or furnished. This assessment shall be collected with, and in the same manner as, City taxes. If the same have remained delinquent and unpaid after the expiration of the time limited in the Treasurer's warrant for the collection of taxes levied in such tax roll, such charges shall be returned to the County Treasurer to be collected in the same manner as the lien created by City taxes on the delinquent tax roll of the City.

Sec. 9-6. Protection of landlord, notice of lease and security deposit. [Ord. No. 800; Ord. No. 1160, 3-6-1996; Ord. No. 1284, 9-20-2000; 5-14-2014 by Ord. No. 1627]

If the owner of a premises which receives electric services provided by the Holland Board of Public Works shall lease such premises to a tenant who is responsible under the lease for the payment of the charges for electric services, and such property owner notifies the HBPW, in writing, of such fact, the notice to include a true copy of the lease of the affected premises executed by the owner or his/her designated agent and the tenant, then the charges for electric services provided to such leased premises shall not become a lien against the premises after

the date such notice is received by the HBPW. Immediately after the filing of such notice, the HBPW shall render no further service to the premises until it receives from the tenant, or an individual or entity acting on behalf of the tenant, a security deposit as security for the payment of the electric charges. Deposits shall be refunded to the tenant, or to the individual or entity that paid the deposit on behalf of the tenant, upon a customer's completion of 12 consecutive months of good credit history or upon the termination of utility service with the account in good standing.

Sec. 9-7. Effect of article on prior revenue bond ordinances. [Ord. No. 800; Ord. No. 1284, 9-20-2000]

The provisions of this article are intended to amplify and clarify Section 12.18 of the City Charter, Section 13 of Ordinance No. 446, adopted March 23, 1959, and Ordinance No. 733, adopted March 7, 1979. The enactment of this article shall not be construed to affect the validity of any liens arising prior to June 9, 1982, under the terms of Section 13 of Ordinance Nos. 446 and 733 to the extent that such liens do not exceed the authority granted to the City by statute.

ARTICLE III
Electrical Service

Sec. 9-8. Contracts for service—electric. [Ord. No. 1537, 7-1-2009]

All contracts for electric service shall be subject to all rules and regulations heretofore or hereafter adopted or promulgated by the City of Holland, acting by and through its Holland Board of Public Works ("HBPW"), and all applicable ordinances (or provisions thereof) which may be now or hereafter in force.

Sec. 9-9. Access to premises. [Ord. No. 1537, 7-1-2009]

Employees of the HBPW shall have the right to enter upon the premises of any electric customer at any time during normal business hours for the purpose of meter examination, testing, changing and/or moving any electrical equipment, meters, apparatus, and/or wiring, making a connected load count, or measuring the customer's maximum electric demand.

Sec. 9-10. Customer responsibility—electric meters. [Ord. No. 1537, 7-1-2009]

Each customer shall have the responsibility for installing electric metering sockets to permit the HBPW to connect its meter or metering system to the City electric distribution system. The meter socket, meter, or metering device shall be and remain accessible to employees of the HBPW and must be maintained in front of and to both sides of the meter for installation, operation, testing, and replacement. The HBPW may promulgate additional rules and regulations regarding the technical requirements and specifications for connection to metering devices.

In the event the HBPW should change its meters or implement an alternate meter reading system, the customer, upon not less than 30 days' notice, shall arrange for the necessary

electrical installation, including but not limited to the replacement of electric meter sockets, in order to make the customer connection compatible with the new meters or alternate meter reading system.

The HBPW may, from time to time, offer an installment payment of costs or other financial incentive to the customer for the conversion of the customer equipment in order to construct and install compatible metering sockets and equipment for the meters or metering system of the HBPW. The terms of the installment payment of costs or other financial incentive shall be incorporated into a resolution as adopted, from time to time, by the directors of the Holland Board of Public Works and/or the Holland City Council, which shall specify the assistance available to customers.

In the event a customer fails to pay for the conversion of the electric metering socket and/or equipment, the HBPW shall have the right to enter on the premises and arrange for such connection work to be done and place a lien on the customer premises for such costs and installation. The installation of necessary metering sockets shall be subject to all rights and remedies as permitted by law and charter for the establishment and priority of a lien as permitted by law.

Sec. 9-11. Tampering with metering device; theft. [Ord. No. 1537, 7-1-2009; 5-14-2014 by Ord. No. 1626]

An electric customer of the HBPW shall not tamper with any HBPW equipment; install or have installed any wiring, connection, apparatus, or other device which prevents the electric meter or metering system from registering or recording properly all energy used, or to be used, or which enables such customer to obtain or use any electric energy without the same having been registered properly by any electric meter or metering device of the HBPW. This section shall supplement and not be in lieu of any provision of state law, including but not limited to MCLA 750.282. A violation of this section shall constitute a Class 2 municipal civil infraction under Section 9-15 of the City of Holland Code of Ordinances, and shall be subject to prosecution pursuant to applicable provisions of the City Charter and state law.

Sec. 9-12. Termination of service. [Ord. No. 1537, 7-1-2009]

The HBPW, upon approval of the Holland City Council, may adopt a termination of electric service policy establishing the terms and conditions under which electric service to any customer may be suspended, discontinued, or terminated. In the event a termination of service requirement is adopted by state law which is applicable to the HBPW, the HBPW shall not adopt a policy which is less restrictive than applicable statutory provisions.

Sec. 9-13. Continuity of service. [Ord. No. 1537, 7-1-2009]

The HBPW and the City of Holland will use ordinary diligence in providing electric service, but does not guarantee constant or continuous service. By applying for electric service, each electric customer shall be deemed to have agreed that the HBPW:

(1) May interrupt or suspend service at any time, either with or without notice, for inspection, repair, maintenance, alteration, or change on the customer's premises or elsewhere; and

(2) Shall have no duty, obligation, responsibility, or obligation for or by reason of any such interruption or suspension of service, or for any damage or loss resulting therefrom.

Sec. 9-14. Trimming of trees and obstructions. [Ord. No. 1537, 7-1-2009]

The HBPW shall have the right, privilege, and authority to trim trees, overhanging branches, hedges, shrubs, or other obstructions which might endanger the safety or interfere with the construction, operation, and maintenance of any cross-arms, wires, conductors, insulators, or other electrical fixtures, devices, or apparatus of the HBPW. By acceptance of electric service from the HBPW, each electric customer shall be deemed conclusively to have granted such right, privilege, and authority to the HBPW; and if any electric customer thereafter should challenge or object to the exercise of such service in the general utility function of the HBPW, service to such customer may be refused and/or discontinued for that reason alone.

Sec. 9-15. General penalties/civil infraction. [Ord. No. 1537, 7-1-2009]

Any person who violates or participates with another in a violation of any provision of this article is responsible for a Class 2 municipal civil infraction and subject to the provisions of Section 2-118 as a Class 2 civil infraction, including any costs which may be imposed by a court of competent jurisdiction. Each separate act in violation of this article shall be deemed separate offenses. The service of citations or municipal civil infractions under this article may be served by personal delivery or by first class mail. The City may also seek from a court of competent jurisdiction other remedies to prevent future violations and such other remedies as provided by Section 1-10.2 of the Ordinance Code.

Chapter 10

(RESERVED)

[Former Ch. 10, which pertained to fees, bonds and insurance, as adopted and amended, was repealed 10-7-1992 by Ord. No. 1070, effective 10-28-1992.]

Chapter 11

FIRE PROTECTION

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ARTICLE I
In General

Sec. 11-1. "Fire hazard" defined. [Code 1955, § 2-2.1; Ord. No. 527]

The term "fire hazard" means any building, premises, structure or thing, or any accumulation of trash, refuse or combustible matter, which by reason of its nature, location, occupancy, condition or use may cause loss, damage or injury to persons or property by reason of fire, explosion or action of the elements.

Sec. 11-2. State law and rules and regulations. [Code 1955, § 2-2.2; Ord. No. 527]

The Fire Chief and his or her authorized representatives shall have full powers under, and no person shall violate, any law of the state, or any rule or regulation adopted by any duly authorized agency of the state, pertaining to fire, fire hazards, fire prevention or fire waste.

Sec. 11-3. Fire hazard inspections; right of entry of Fire Chief, etc. [Code 1955, § 2-2.3; Ord. No. 527]

The Fire Chief and his or her authorized representatives are hereby empowered to enter at any reasonable time upon and into any premises, building or structure, without any restraint or liability for trespass, to examine, inspect and ascertain the condition thereof with regard to the prevention of fire and explosion, and the protection of persons and property therefrom.

Sec. 11-4. Order to abate fire hazard—generally; abatement by Fire Chief, etc. [Code 1955, § 2-2.3; Ord. No. 527]

The Fire Chief or his or her authorized representatives shall order the abatement of any fire hazard, or any deficiency which may cause an otherwise preventable fire or explosion, endanger persons or property, or be dangerous to the public security or safety. If any such hazard or deficiency requires immediate action, the Fire Chief and his or her authorized representatives may abate the same, and the cost of abating such hazard or deficiency may be charged against the premises and the owner thereof as a special assessment in accordance with the provisions of Chapter XV of the Charter of the City.

Sec. 11-5. Appeals to Fire Chief. [Code 1955, § 2-2.3; Ord. No. 527]

Should any person receiving an order of abatement under the provisions of Section 11-4 consider himself aggrieved, he or she may, within 48 hours of the receipt of such order, excluding Saturdays, Sundays or holidays, appeal to the Fire Chief, who shall hear the grievance and make such written order as he or she determines reasonable and proper.

Sec. 11-6. Failure to comply with order; prohibited condition constitutes nuisance. [Code 1955, § 2-2.3; Ord. No. 527]

No person shall fail to comply with any order of the Fire Chief or his or her authorized representatives issued under the provisions of Section 11-4, unless pending appeal, as provided for by Section 11-5, and any condition permitted to exist contrary to the terms of such order shall constitute a public nuisance.

Sec. 11-7. Accumulations of combustible wastes. [Code 1955, § 2-2.10; Ord. No. 527]

(a) Generally. No person owning or being responsible for any premises shall permit any wastepaper, oil, rags, excelsior, refuse or any material of a similar nature to accumulate therein or thereon, to such extent that such accumulation creates a fire hazard.

(b) Private garages. No person owning or being responsible for any private garage shall permit any wastepaper, ashes, oil, rags, excelsior, refuse or any material of a similar nature to accumulate therein.

Sec. 11-8. Ashes. [Code 1955, § 2-2-9; Ord. No. 527]

No ashes, except at factories where ashes are used for manufacturing purposes, shall be kept or deposited in any part of this City in or within 20 feet of any building unless the same be in a metallic or earthen vessel, or brick or stone ash room.

Sec. 11-9. Fires in streets, etc. [Code 1955, § 2-2.11; Ord. No. 527]

No person shall kindle any fire in or upon any street or alley, or upon any public place, except in publicly provided outdoor grills.

Sec. 11-10. Fires on private property. [Code 1955, § 2-2.12; Ord. No. 527]

No person shall kindle or light any fire on any private property within 15 feet of any building or other structure, or within 50 feet of any lumber, timber, wood, hay, straw, shavings or other combustible material, and no open fire shall be kindled or lighted without first informing, and receiving permission of, the Fire Department.

Sec. 11-11. False alarms; molesting fire fighting equipment, etc. [Code 1955, § 2-2.13; Ord. No. 527]

No person shall turn in, sound or cause to be communicated to the Fire Department a false alarm of fire, or molest any fire fighting apparatus or equipment, or anything pertaining to the fire alarm system, without the express permission of the Fire Chief or his or her authorized representative.

Sec. 11-12. Fire hydrants—obstruction of. [Code 1955, § 2-2.14; Ord. No. 527]

No person shall place any building material or other obstruction whatever, nor shall any person who is responsible for any such material or obstruction, permit the same to remain within 15 feet of any fire hydrant.

Sec. 11-13. Opening or taking water from. [Code 1955, § 2-2.15; Ord. No. 527]

No person, except members of the Fire Department, Board of Public Works or the Transportation Department, shall use any fire hydrant, except in case of emergency, without first securing permission from the Fire Chief or his or her authorized representative for such use and agreeing to pay for the water to be used. In no case shall any wrench or tool be used on a fire hydrant other than a regulation Fire Department hydrant wrench.

Sec. 11-14. Violations and penalties. [Ord. No. 1243, 3-24-1999]

A person who violates or fails to comply with Sections 11-9 or 11-10 of this article is responsible for a Class II municipal civil infraction and subject to the civil fines set forth in the schedule of civil fines in Section 2-118 of this Code and any other relief that may be imposed by the court. Each act of violation and each day upon which such violation occurs shall constitute a separate violation.

ARTICLE II
Explosives; Fireworks

Sec. 11-15. State law, rules and regulations adopted. [Code 1955, § 2-6.1]

Pursuant to the power granted to cities by Subsection (k) of Section 3 of Act 279 of the Public Acts of 1909, as amended,[1] the Michigan State Police Rules and Regulations for Storage and Handling of Explosives, adopted and promulgated by the Commissioner of the

1. **Editor's Note: See MCLA § 117.3(k).**

state police and published in Michigan Administrative Code, 1944, page 1403 et seq., as amended, which constitute a code within the meaning of such Act, are hereby adopted as a part of this Code; provided, that whenever any act is prohibited in the state by such regulations, such prohibition shall extend only to the City for the purpose of this Code.

Sec. 11-16. Possession, etc., of certain explosives prohibited. [Code 1955, § 2-6.2]

No person shall introduce or have in his or her possession any nitroglycerine or other explosives, except dynamite, detonators and caps therefor, within the City, except for explosives in legal transit.

Sec. 11-17. Fireworks. [Code 1955, § 2-6.3; Ord. No. 715; amended 4-17-2013 by Ord. No. 1603; 6-26-2013 by Ord. No. 1610; 2-20-2019 by Ord. No. 1764]

(a) Definitions. As used in this section, the following terms shall have the meanings indicated:

ARTICLES PYROTECHNIC — Pyrotechnic devices for professional use that are similar to consumer fireworks in chemical composition and construction but not intended for consumer use, that meet the weight limits for consumer fireworks but are not labeled as such, and that are classified as UN0431 or UN0432 under 49 CFR 172.101.

CONSUMER FIREWORKS — Firework devices that are designed to produce visible effects by combustion, that are required to comply with the construction, chemical composition, and labeling regulations promulgated by the United States Consumer Product Safety Commission under 16 CFR Parts 1500 and 1507, and that are listed in American Pyrotechnics Association (APA) Standard 87-1, 3.1.2, 3.3.3, or 3.5. Consumer fireworks do not include low-impact fireworks.

DISPLAY FIREWORKS — Large fireworks devices that are explosive materials intended for use in fireworks displays and designed to produce visible or audible effects by combustion, deflagration, or detonation, as provided in 27 CFR 555.11, 49 CFR 172, and APA Standard 87-1, 4.1.

FIREWORK or FIREWORKS — Any composition or device, except for a starting pistol, a flare gun, or a flare, designated for the purpose of producing a visible or audible effect by combustion, deflagration, or detonation. Fireworks consist of consumer fireworks, low-impact fireworks, articles pyrotechnic, display fireworks, homemade fireworks and special effects.

HOMEMADE FIREWORKS — Any composition or device designed for the purpose of producing a visible or audible effect by combustion, deflagration, or detonation that is not produced by a commercial manufacturer and does not comply with the construction, chemical composition, and labeling regulations of the United States Consumer Product Safety Commission under 16 CFR Parts 1500 and 1507.

LOW-IMPACT FIREWORKS — Ground and handheld sparkling devices as that phrase is defined under APA Standard 87-1, 3.1, 3.1.1.1 to 3.1.1.8, and 3.5.

NOVELTIES — That term as defined under APA Standard 87-1, 3.2, 3.2.1, 3.2.2, 3.2.3, 3.2.4, and 3.2.5 and all of the following:

(1) Toy plastic or paper caps for toy pistols in sheets, strips, rolls, or individual caps containing not more than 0.25 of a grain of explosive content per cap, in packages labeled to indicate the maximum explosive content per cap.

(2) Toy pistols, toy cannons, toy canes, toy trick noisemakers, and toy guns in which toy caps as described in Subsection (1) above are used, that are constructed so that the hand cannot come in contact with the cap when in place for the explosion, and that are not designed to break apart or be separated so as to form a projectile or missile by the explosion.

(3) Flitter sparklers in paper tubes not exceeding 1/8 inch in diameter.

(4) 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 devices.

(b) Limitation on use of consumer fireworks. No person shall ignite, discharge or use consumer fireworks in the City except in a manner not otherwise prohibited by law and except during the following times and dates:

(1) From 11:00 a.m. on December 31 until 1:00 a.m. on January 1.

(2) From 11:00 a.m. on the Saturday and Sunday immediately preceding Memorial Day until 11:45 p.m. on each of those days.

(3) From 11:00 a.m. on June 29 to July 4 until 11:45 p.m. on each of those days.

(4) From 11:00 a.m. on July 5, if that date is a Friday or Saturday, until 11:45 p.m.

(5) From 11:00 a.m. on the Saturday and Sunday immediately preceding Labor Day until 11:45 p.m. on each of those days.

(c) Prohibited consumer firework use locations. No person shall ignite, discharge, use or leave remnants of consumer fireworks within the City on public property, public streets, public rights-of-way, school property, church property, or the property of another person without that organization's or person's express permission. "Property of another person" includes, but is not limited to, hotel and motel property, apartment property, and condominium property, where an owner, management company, or association has or retains authority and control over the use of the property or common areas.

(d) Prohibited transfer to minors. No person shall offer for sale, expose for sale or retail, give or furnish to any person under the age of 18 years any consumer fireworks, as defined herein, within the City.

(e) Prohibited acquisition by minors. No person under the age of 18 years shall buy, purchase, acquire or obtain any consumer fireworks, as defined herein, within the City.

(f) Limitations on use by minors. No person under the age of 18 years shall ignite, discharge or use any consumer fireworks, as defined herein, within the City, unless under the direct supervision of an adult; provided, however, that such adult is not otherwise disqualified from using consumer fireworks or low-impact fireworks pursuant to MCLA § 28.462(3).

(g) Knowingly allow use in violation of prohibition. No person owning or having control over property within the City shall knowingly allow another person to ignite, discharge, or use consumer fireworks on such property in violation of the prohibition as stated in Subsection (b) herein.

(h) Limitations on use of articles pyrotechnic and display fireworks. No person shall ignite, discharge or use articles pyrotechnic or display fireworks within the City without first securing a permit for such use from the Chief of the Department of Public Safety.

(i) Permit for public display. Upon application, in writing, by any association or group of individuals for the public display of fireworks, the Chief of the Department of Public Safety may grant a permit for such display, subject to such conditions as they may impose to properly safeguard the public, both as to persons and property.

(j) Enforcement. The Chief of the Department of Public Safety, his or her designees and sworn law enforcement officers are authorized to enforce the provisions of this section.

(k) Violations, fines, penalties and seizure.

(1) Any person, firm, corporation or entity violating Subsection (g) or (h) of this section shall be guilty of a misdemeanor, punishable by up to 90 days in jail and/ or a fine up to $500.

(2) Any person, firm, corporation or entity violating Subsection (b) of this section shall be responsible for a municipal civil infraction and subject to the civil fine of $1,000, with $500 remitted to the City of Holland for enforcing this section pursuant to MCLA § 28.457(3).

(3) Any person, firm, corporation or entity violating Subsection (c), (d), (e) or (f) of this section shall be responsible for a Class III municipal civil infraction and subject to the civil fine set forth in the schedules of civil fines in Section 2-118 of the Holland City Code and any other relief that may be imposed by the court.

(4) If the Chief of the Department of Public Safety, his or her designee or a sworn law enforcement officer determines that a violation of this section has occurred, he or she may seize the consumer fireworks as evidence of the violation.

(5) Following the final disposition of a finding of responsibility for violating this section, the City may dispose of or destroy any consumer firework retained as evidence in that prosecution.

(6) In addition to any other penalty, a person, firm, corporation, or entity that is found responsible for a violation of this section shall be required to reimburse the City for the costs of storing, disposing of, or destroying the consumer fireworks that were confiscated for a violation of this section.

ARTICLE III

Miscellaneous Provisions

Sec. 11-18. Adoption of International Fire Code. [Ord. No. 852; Ord. No. 1499, § 2, 3-19-2008; amended 9-3-2014 by Ord. No. 1635]

Pursuant to the power granted to cities by Section 3(k) of Act No. 279 of the Public Acts of 1909, as amended, MCLA § 117.3(k) and Section 5.9 of the Holland City Charter, the International Fire Code, 2012 Edition (including Appendix Chapters A, B, C, D, E, F and G), as published by International Code Council, regulating and governing the safeguarding of life and property from fire and explosion hazards arising from the storage, handling and use of hazardous substances, materials and devices, and from conditions hazardous to life or property in the occupancy of buildings and premises in the City of Holland; and providing for the issuance of permits and collection of fees therefor, is hereby adopted by reference and made a part hereof as if fully set forth in this article. Complete printed copies of the Fire Code adopted herein are available for public use and inspection at the office of the City Clerk or at another office designated by the City Clerk.

Sec. 11-19. Amendments to the International Fire Code, 2012 Edition. [Ord. No. 852; Ord. No. 1499, § 3, 3-19-2008; amended 9-3-2014 by Ord. No. 1635]

The following sections and subsections of the International Fire Code, 2012 Edition, referred to in Subsections (a) through (m) below are hereby amended as set forth herein. The following section and subsection numbers refer to like numbers of sections and subsections of the International Fire Code, 2012 Edition:

(a) Section 101.1 is amended to read as follows:

101.1 Title. These regulations adopted by reference in Section 11-18 of the City of Holland Code shall be known as the Fire Prevention Code of the City and are herein referred to as "the Code" or "this Code."

(b) Section 103.2 is amended to read as follows:

103.2 Appointment. The Public Safety Director, Fire Operations Captain, Fire Marshal, and Fire Inspector are each designated as "Fire Code Official" under this code.

(c) Section 105.1.1 is amended to read as follows:

105.1.1 Permits required. Any property owner or authorized agent who intends to conduct an operation or business, or install or modify systems and equipment which is regulated by this code shall obtain a permit by the fire code official, or other City department as directed by the fire code official. Permit fees, if any, shall be paid prior to issuance of the permit. Issued permits shall be kept on the premises designated therein at all times and shall be readily available for inspection by the fire code official.

(d) Section 105.3.3 is amended to read as follows:

105.3.3 Occupancy prohibited before approval. The building or structure shall not be occupied prior to the Fire Code Official issuing a permit and conducting associated inspections that indicate the applicable provisions of this Code have been met. Provided, however, that nothing in this section, Section 105.3.4 or any other section of this Code shall authorize a building or structure to be occupied without meeting all other applicable occupancy permit requirements of the City of Holland.

(e) Section 109.4 is amended to read follows:

109.4 Violation penalties. Persons who shall violate a provision of this Code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter, repair or do work in violation of the approved construction documents or directive of the Fire Code Official, or of a permit or certificate used under provisions of this Code, shall be guilty of a Class III municipal civil infraction and subject to the civil fines set forth in the schedule of civil fines in Section 2-118 of the Holland City Code and shall be subject to any other relief that may be imposed by a court for such conduct, which shall also be considered a nuisance per se. Each act of violation and each day upon which such violation occurs shall constitute a separate violation.

(f) Section 111.4 is amended to read as follows:

111.4 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 guilty of a Class III municipal civil infraction and subject to the civil fines set forth in the schedule of civil fines in Section 2-118 of the Holland City Code and shall be subject to any other relief that may be imposed by a court for such conduct, which shall also be considered a nuisance per se.

(g) Section 505.1 (Premises identification) is deleted in its entirety and is replaced with the requirements of Article IV, Chapter 32, of the Holland City Code entitled "Numbering Buildings."

(h) Section 506 (Key Boxes) is deleted in its entirety and is replaced with the requirements of Article VI, Chapter 11, of the Holland City Code entitled "Emergency Access Lock Boxes."

(i) Section 5003.3 (Release of hazardous materials); Section 5003.3.1 (Unauthorized discharges); Section 5003.3.1.1 (Records); Section 5003.3.1.2 (Preparation); Section 5003.3.1.3 (Control); and Section 5003.3.1.4 (Responsibility for cleanup) are deleted in their entirety and are replaced with the requirements of Chapter 11, Article V, of the Holland City Code entitled "Discharge of Hazardous/Toxic Material."

(j) Section 5504.3.1.1 is amended to read as follows:

5504.3.1.1 Location. Stationary containers shall be separated from exposure hazards in accordance with the provisions applicable to the type of fluid contained and the minimum separation distances indicated in Table 5504.3.1.1. Containers of cryogenic fluids shall not be located within dyked areas containing other hazardous materials. Storage of flammable cryogenic fluids in stationary containers outside of buildings is prohibited within any residential zoning district in the City or at any nonagricultural zoned parcel upon which a dwelling unit is located.

(k) Section 5704.2.9.6.1 is amended to read as follows:

5704.2.9.6.1 Locations where aboveground tanks are prohibited. Storage of Class I and Class II liquids in aboveground tanks outside of buildings is prohibited within any residential zoning district in the City or at any nonagricultural zoned parcel upon which a dwelling unit is located.

(l) Section 5706.2.4.4 is amended to read as follows:

5706.2.4.4 Locations where aboveground tanks are prohibited. The storage of Class I and Class II liquids in aboveground tanks is prohibited within any residential zoning district in the City or at any nonagricultural zoned parcel upon which a dwelling unit is located.

(m) Section 6104.2 is amended to read follows:

6104.2 Maximum capacity within established limits. Within residential zoning districts in the City or at any nonagricultural zoned parcel upon which a dwelling unit is located, the aggregate capacity of any one installation of liquefied petroleum gas shall not exceed a water capacity of 2,000 gallons.

Exception. In particular installations, this capacity limit shall be determined by the Fire Code Official, after consideration of special features such as topographical conditions, nature of occupancy, and proximity to buildings, capacity of proposed containers, degree of fire protection to be provided, and capabilities of the local Fire Department.

Sec. 11-20. Smoke detectors—Definitions. [Ord. No. 852; Ord. No. 932, 11-4-1987]

For the purposes of Sections 11-21 through 11-27, the following words and phrases shall have the meanings respectively ascribed to them by this section:

APPROVED SMOKE DETECTORS — All devices or systems which comply with the specifications of the Underwriters Laboratories, Inc., or any other nationally recognized laboratory standards and bear a label indicating that the detector has been so listed and approved.

DWELLING — Shall have the same meaning as used in Section 14-4.6 of this Code.

MALFUNCTION — For the purposes of Section 11-25, any defect or other problem with a smoke detector or smoke detection system; except, that such term shall not include dead, weak or defective batteries.

MIXED OCCUPANCY DWELLING — A building containing one or more dwelling units and a business other than a home occupation.

OWNER — The person who holds legal title to the premises; however, should a land contract be in existence, the land contract purchaser shall be considered the owner.

RENTAL UNIT — Any residence apartment, flat, motel room, hotel room, boarding room or boardinghouse for which consideration is paid by one person to another for use or occupancy thereof.

SINGLE STATION ALARM DEVICE — Any assembly incorporating the approved smoke detector, control equipment and the signaling device in one unit, operating from a power supply either in the unit or obtained at the point of installation.

SMOKE DETECTION SYSTEM — One or more smoke detectors in any system composed of self-supervised smoke detection and signaling devices operating on an approved, permanently wired electric circuit, so arranged that the activation of any one smoke detection device will activate all signaling devices throughout the building.

SMOKE DETECTOR — An instrument which detects visible or invisible particles of combustion and activates a signaling device.

USE GROUP R-1 STRUCTURES — This use group shall include all hotel, motel and dormitory buildings arranged for the shelter and sleeping accommodations of more than 20 individuals.

USE GROUP R-2 STRUCTURES — This use group shall include all multiple-family dwellings having more than two dwelling units and all dormitories, boarding and lodging houses arranged for shelter and sleeping accommodations of more than five and not more than 20 individuals.

USE GROUP R-3 STRUCTURES — This use group shall include all buildings arranged for the use of one-family or two-family dwelling units, including not more than five lodgers or boarders per family or any dwelling not included in use group R-1 or R-2.

Sec. 11-21. Installation and maintenance requirements. [Ord. No. 852; Ord. No. 932, 11-4-1987]

All new and existing structures used as dwellings in use groups R-1, R-2 and R-3 and mixed occupancy dwellings shall have approved smoke detectors installed by the owner, in accordance with the following requirements:

(a) A structure in use group R-1 shall have a minimum of one single station smoke detector in each guest room, suite or sleeping area.

(b) Each building in use groups R-2 and R-3 shall have at least one single station smoke detector for each level on which there are bedrooms. The smoke detectors shall be in the immediate vicinity of the bedrooms. In addition, the owners of any new or converted dwellings shall comply with the smoke detector requirements of the building and other codes adopted by the City of Holland.

(c) The installation and maintenance of all smoke detectors shall be in accordance with the manufacturer's recommendations and with the requirements of the National Fire Protection Association's Pamphlet Number 74, as may be amended.

(d) The owner of any existing rental structure in use groups R-1, R-2 or R-3 shall have until November 15, 1984, to comply with this section. The owner of any existing single-family dwelling not used as a rental unit shall have until January 31, 1988, to comply with this section. The owners of all other dwellings shall comply with this section prior to occupancy.

(e) The owner of property covered by this section shall be deemed to have complied with the maintenance requirement set forth in Subsection (c) if he or she corrects any malfunctions of which he or she has actual knowledge or which are reported by the tenant pursuant to Section 11-25 and if such corrective action is taken as soon as reasonable and practical under the circumstances.

Sec. 11-22. Alternate installations. [Ord. No. 852]

The Chief of the Fire Department or his or her duly authorized representative may waive the requirements of Sections 11-20 to 11-27 upon approval and installation of an alternate form of smoke detector or system designed to adequately safeguard the safety of the occupants of the particular dwelling. Any person requesting approval of an alternate form of smoke detector or system shall submit adequate proof to the Fire Chief or his or her duly authorized representative showing that the alternate system adequately safeguards the occupants of the dwelling.

Sec. 11-23. Compliance with provisions of Code concerning electricity. [Ord. No. 852]

If any smoke detector device is directly connected to the electrical system of a building, the person installing the device shall comply with the provisions of Chapter 9 of this Code dealing with electricity and shall obtain an electrical permit. A permit shall not be required for installation of a battery-powered single station alarm device.

Sec. 11-24. Tampering or interfering with. [Ord. No. 852]

No person shall tamper with or interfere with the operation or effectiveness of a smoke detector.

Sec. 11-25. Notification concerning malfunctioning or inoperable detectors. [Ord. No. 852]

A tenant shall immediately notify the property owner or an agent thereof upon discovery of a malfunctioning or inoperable smoke detector or smoke detection system.

Sec. 11-26. Administration and enforcement of provisions by Fire Chief. [Ord. No. 853]

The Chief of the Fire Department or his or her authorized representative shall have the responsibility for enforcement and administration of Sections 11-20 to 11-27 and shall have the authority to enter premises to inspect the same for compliance.

Sec. 11-27. Violations and penalties. [Ord. No. 852; Ord. No. 861]

Any person who shall violate or fail to comply with the provisions of Section 11-21, 11-23 or 11-24 shall be deemed guilty of a misdemeanor, punishable by a fine not to exceed $500 or imprisonment not to exceed 90 days, or both. In addition, the violation of such sections shall be deemed a nuisance per se, subject to abatement as provided in this Code and by state law.

ARTICLE IV
Escrow of Fire Insurance Proceeds

Sec. 11-28. Definitions. [Ord. No. 893; amended 1-17-2018 by Ord. No. 1724]

The City shall proceed under provisions of Michigan Compiled Law (MCL) § 500.2845 regarding escrow of insurance payments due to fire or explosion and loss to insured real property.

Sec. 11-29. through Sec. 11-35. (Reserved)[2]

ARTICLE V
Discharge of Hazardous/Toxic Material

Sec. 11-36. Discharge of hazardous/toxic material prohibited; public nuisance. [Ord. No. 1071, 10-21-1992; Ord. No. 1243, 3-24-1999]

No person shall cause, suffer to be caused, or in any way contribute to, the discharge, release, or accumulation of any hazardous/toxic material upon any public way or any other area open to the public within the City of Holland; and any such discharge, release, or accumulation shall be deemed to be a public nuisance. This provision is intended to impose strict liability upon the driver of every vehicle which is involved in an accident resulting in the discharge, release, or accumulation of any such hazardous/toxic material and is intended to include, without limitation, all instances of passive fault or no fault at all.

2. **[Editor's Note: Former Sections 11-29., Insurer to withhold percentage of settlement proceeds; notice; 11-30., Escrow account procedure; 11-31., Receipt of amount withheld; interest; commingling of funds; release of funds to satisfy mortgages; 11-32., Release of funds to insured; 11-33., Use of retained proceeds upon failure to show reasonable proof.; 11-34., Applicability of article.; and 11-35., Severability; saving clause., were repealed 1-17-2018 by Ord. No. 1724]**

Sec. 11-37. "Hazardous/toxic material" defined. [Ord. No. 1071, 10-21-1992]

"Hazardous/toxic material" as used in this article means any material or substance which because of its quantity, concentration, or physical, chemical, or infectious characteristics, presents a direct or immediate threat to the public health or safety or to the environment and which requires immediate action to mitigate the threat.

Sec. 11-38. Abatement. [Ord. No. 1071, 10-21-1992]

The Fire Chief or his or her authorized representative may immediately abate the discharge, release, or accumulation of any such hazardous/toxic material without approval of the City Council.

Sec. 11-39. Assessment of expenses; joint and several responsibility; assessment of insurer. [Ord. No. 1071, 10-21-1992]

The Fire Chief or his or her authorized representative shall have the ability to recover by assessment all expenses incurred in abating such discharge, release, or accumulation. Such expenses shall include but not be limited to the actual labor and materials costs to the City of Holland (including workers compensation benefits, fringe benefits, administrative overhead, cost of equipment operation, cost of materials, cost of disposal, cost of any contract labor or materials, and any other cost) associated with abatement, mitigation, and cleanup in order to ensure the safety of the City of Holland and its populace. Such expenses shall be assessed to, and shall be, the joint and several responsibility of each person who has caused, suffered to be caused, or in any way contributed to, such discharge, release, or accumulation, regardless of whether that person has any other legal liability therefor apart from this section. The Fire Chief or his or her authorized representative may assess such expenses directly to the insurer of any person made responsible therefor under this section.

Sec. 11-40. Failure to pay; procedure to recover. [Ord. No. 1071, 10-21-1992; Ord. No. 1243, 3-24-1999]

All assessments shall be paid within 30 calendar days unless otherwise approved by the Fire Chief or his or her authorized representative. Any person who fails to pay expenses addressed pursuant to this section within 30 calendar days of service of the assessment, shall be considered in default. In case of default, the City of Holland may commence suit to recover the assessed expenses together with interest, costs, and attorneys fees incurred in collection of such assessment or otherwise allowed by law.

Sec. 11-41. Severability; saving clause. [Ord. No. 1071, 10-21-1992]

(a) If any section, subsection, paragraph, sentence, clause or phrase of this article shall be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of this article, which shall continue in full force and effect, and to this end, the provisions of this article are hereby declared severable.

(b) This article shall not affect violations of any other ordinance, code, or regulation of the City existing prior to (ordinance effective date), and any such violation shall be

governed and shall continue to be punishable to the full extent of the law under the provisions of those ordinances, codes, or regulations in effect at the time the violation was committed.

ARTICLE VI
Emergency Access Lock Boxes

Sec. 11-42. Installation of lock boxes; when required, location and guidelines. [Ord. No. 1308, 7-18-2001]

(a) A lock box for keys shall be installed on the outside of each building or structure in the City of Holland which is equipped with an automatic fire suppression system, equipped with an automatic fire detection system, or equipped with a medical emergency alarm system, except that a lock box is not required to be installed on one- and two-family residential dwellings. A lock box shall also be installed on any other building or structure in the City of Holland if it is deemed necessary by the Fire Chief. Written approval of a proposed lock box shall be obtained from the Fire Chief or his or her designee before a lock box is installed.

(b) A lock box required by this article shall be installed on the outside of the building or structure in a location approved by the Fire Chief or his or her designee. Written approval of a proposed location for a lock box shall be obtained from the Fire Chief or his or her designee before a lock box is installed. Stickers supplied by the Fire Department shall be affixed to the main entry door of the building or structure to indicate the presence of a lock box.

(c) The Fire Chief shall develop and publish written guidelines governing the requirements for an approved lock box and approved locations for the installation of lock boxes.

Sec. 11-43. Contents of lock boxes. [Ord. No. 1308, 7-18-2001]

Each lock box shall contain the following:

(a) Keys to the building or structure, including keys to exterior and interior doors, except for doors to individual residences within a multifamily building or structure. If a master key is available, then it shall be provided to eliminate multiple keys.

(b) Keys to mechanical and equipment rooms.

(c) Keys to elevator controls.

(d) Keys to specific areas as required and deemed necessary by the Fire Chief.

(e) Keys necessary for the control of a fire protection system.

(f) A list of the names and contact numbers of three people familiar with the building or structure who may be contacted in an emergency.

Sec. 11-44. Responsibility. [Ord. No. 1308, 7-18-2001]

It shall be the responsibility of the owner, lessee, tenant, occupant or other party in control of a building or structure to assume all costs associated with the purchase and installation of a lock box required by this article; to maintain the lock box in good condition; and to insure that all keys contained therein are those currently in use in the building or structure. The Fire Department shall have the right to periodically inspect lock boxes for proper maintenance, visibility, accessibility, a current emergency contact list and keys when it conducts a routine, fire safety inspection of a building or structure, when it performs an incident response plan site visit at a building or structure, or when it reasonably believes that the keys or contents of a lock box are out of date.

Sec. 11-45. Effective date for compliance. [Ord. No. 1308, 7-18-2001]

(a) If required by this article, then a lock box shall be installed on a new or remodeled building or structure before it is occupied.

(b) If required by this article, then lock boxes shall be installed on all existing buildings or structures within six months of the effective date of this article.

Sec. 11-46. Violations and penalties. [Ord. No. 1308, 7-18-2001]

A person who violates or fails to comply with this article shall be responsible for a Class I municipal civil infraction and subject to the civil fines set forth in the schedule of civil fines in Section 2-118 of this Code and any other relief that may be imposed by the court. Each act of violation and each day upon which such violation occurs shall constitute a separate violation.

ARTICLE VII
False Fire Alarms

Sec. 11-47. False alarms; purpose. [Ord. No. 1500, § 1, 3-19-2008]

(a) The purpose of this article is to encourage alarm users and fire alarm contractors to properly install, use, and maintain fire alarm systems in order to improve the reliability of such systems and thereby reduce or eliminate false fire alarms.

(b) This article governs the use of fire alarm systems intended to summon the City of Holland Fire Department; allows for the assessment of service fees; and provides for civil and criminal penalties.

Sec. 11-48. Definitions. [Ord. No. 1500, § 1, 3-19-2008]

(a) ADOPTED CODE(S) — The 2006 International Fire Code as adopted, in part, by the City of Holland.

(b) ALARM USER — Any person, whether owner, occupant, or tenant, upon whose premises a fire alarm system is maintained or operated within the City of Holland.

(c) DEPARTMENT — The City of Holland Fire Department.

(d) ENFORCEMENT OFFICIAL — The City of Holland Fire Chief or his/her designated representative.

(e) FALSE FIRE ALARM — For the purposes of this article, the activation of any fire alarm system not caused by heat, smoke or fire, resulting in response by the Department. A false fire alarm includes, but is not limited to, activation of a fire alarm system through any of the following:

(1) Negligent or intentional use or misuse of the system;

(2) Mechanical failure;

(3) Malfunction; or

(4) Improper installation.

A false fire alarm does not include an alarm caused by naturally occurring weather, seismic or other condition; interruption of electrical or telephone service to the alarm user; or malicious or criminal activity by a third party who is not an agent, employee, resident or guest of the alarm user.

(f) FIRE ALARM CONTRACTOR — Any individual, partnership, corporation or other entity appropriately licensed as a fire alarm contractor by the State of Michigan, State Electrical Administrative Board.

(g) FIRE ALARM SYSTEM — Any device or equipment designed to signal visibly, audibly, electronically, mechanically or by any combination of these methods, the presence of a heat, smoke or fire hazard by or through a communication to the Department and to which the Department is trained to respond. The term "fire alarm system" does not include an alarm designed to alert only the inhabitants of a premises.

(h) LETTER FOR EXCESSIVE FALSE FIRE ALARMS — A notification provided to an alarm user by the Department for two or more false fire alarms within a twelve-month calendar year.

(i) PREMISES — Any building or structure in which a fire alarm system is installed.

(j) QUALIFIED FIRE ALARM TECHNICIAN — Any person who inspects, installs, repairs or performs maintenance on fire alarm systems and is factory trained and licensed by the State of Michigan.

(k) RECORD OF COMPLETION — The form required to be filed with the Department pursuant to the National Fire Protection Association's National Fire Alarm Code (NFPA 72).

(l) REPORT OF CORRECTIVE MEASURES AGAINST IMPROPER USE — Documentation in a format acceptable to the enforcement official that verifies the alarm user has taken appropriate corrective measures to prevent future improper use of a fire alarm system.

(m) REPORT OF SERVICE/REPAIR — Documentation in a format acceptable to the enforcement official that verifies proper repairs or maintenance have been performed by both the fire alarm contractor and the alarm user.

(n) SERVICE FEE — The monetary charge payable to the City of Holland to defray the expenses of implementing the purposes of this article and the expenses of responding to false fire alarms.

Sec. 11-49. Responsibility for compliance; requirement of alarm user to respond to scene. [Ord. No. 1500, § 1, 3-19-2008]

(a) Unless otherwise stated herein, the alarm user shall be responsible for complying with all provisions of this article.

(b) The alarm user or designated agent of the alarm user shall appear at the premises upon request of the Department when a fire alarm system has been activated.

Sec. 11-50. False fire alarms. [Ord. No. 1500, § 1, 3-19-2008]

(a) If the Department records two or more false fire alarms at one premises within a twelve-month calendar year, a letter for excessive false fire alarms shall be mailed by first class mail to the alarm user and any fire alarm contractor. Said notice shall direct the alarm user to submit a report of service/repair and/or a report of corrective measures against improper use within 15 calendar days of receipt of said letter to the Department confirming that:

(1) The fire alarm system has been examined by a qualified fire alarm technician; and

(2) A description of the bona fide attempt made to identify and correct any defect of design, installation, operation, or misuse of the fire alarm system which was identified as a possible cause of the false fire alarm.

(b) Failure of the alarm user to return a satisfactory report required by Subsection (a) herein within said fifteen-day period shall result in the imposition of a service fee for the current and each prior false fire alarm within the previous 12 months.

(c) A service fee shall be assessed for the third and each subsequent false fire alarm at the same premises requiring response by the Department during any calendar year.

(d) A fire alarm contractor, alarm user, or any other individual shall not conduct testing or perform repair work on any fire alarm system, sprinkler system or fire suppression system without first notifying the Department that such testing or repair work is being performed. Violation of this subsection shall result in the imposition of a service fee.

(e) False fire alarms activated by any components connected to the fire alarm system shall be included in computing the total number of false fire alarms for purposes of this article.

(f) During the fifteen-day period after receipt of a letter for excessive false fire alarms, any additional false fire alarms will not be counted toward the present year's total false fire alarms, provided that the provisions of Subsections (a)(1) and (2) above have been met.

Sec. 11-51. Service fee. [Ord. No. 1500, § 1, 3-19-2008]

(a) A service fee required by this article may be imposed on an alarm user 45 days after the date of installation of the fire alarm system for existing buildings and 45 days after the date an occupancy permit is issued to an alarm user for newly constructed buildings in which a fire alarm system is installed.

(b) Should any service fee assessed pursuant to this article remain unpaid in excess of 30 days, a late fee shall be assessed and shall be payable in addition to the original service fee.

(c) The service fee and late fee established by this article shall be calculated periodically based on employee labor rates, equipment costs and the Department service costs and established by appropriate resolution adopted by City Council.

Sec. 11-52. Conflict with other City ordinances. [Ord. No. 1500, § 1, 3-19-2008]

If the provisions of this article conflict with any ordinance or resolution previously adopted by the City, the provisions of this article shall control.

Sec. 11-53. Penalties. [Ord. No. 1500, § 1, 3-19-2008]

In addition to any service fee, late fee or other sanction that may be imposed, any person who violates a provision of this article shall be guilty of a Class III municipal civil infraction and subject to the civil fines set forth in the schedule of civil fines in Section 2-118 of the Holland City Code, and shall be subject to any other relief that may be imposed by a court for such conduct, which shall also be considered a nuisance per se.

Chapter 12

(RESERVED)

[Former Ch. 12, Food Service Sanitation, adopted 6-2-2004 by Ord. No. 1389, was repealed 10-7-2015 by Ord. No. 1661.]

Chapter 13

HARBOR, WHARVES, DOCKS AND VESSELS

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ARTICLE I
In General

Sec. 13-1. Harbor defined. [Code 1955, § 6-1.1]

The harbor shall include all the waters of Lake Macatawa and all lagoons connected with such lake, lying within the City.

Sec. 13-2. Dumping, etc., in harbor, etc. [Code 1955, § 6-1.2]

No person shall throw, discharge, dump or deposit any garbage or rubbish, as defined in Section 27-1 or any untreated sewage, dead animals, refuse of any kind or the effluent of any septic tank on the banks or into the waters of the harbor.

Sec. 13-3. Construction and alteration of permanent docks, wharves, etc. [Code 1955, § 6-3.2]

No person shall construct or alter any permanent dock, wharf, seawall, revetment, piling or fill in without compliance with federal statutes and regulations applicable to such activity.

Sec. 13-4. Maintenance of private docks, wharves, etc.; abandoned docks, etc., deemed nuisances, etc. [Code 1955, § 6-3.1]

No person shall allow any dock, wharf, pier or similar landing strip operated by him or her to fall into disrepair or to remain in a dangerous condition. Any such structure, when no longer in use, shall be deemed to be a nuisance and shall be posted in a manner approved by the Building Inspector and may be removed in the manner provided in Section 15.17 of the Charter of the City.

Sec. 13-5. Lake Macatawa—skiing. [Code 1955, § 6-2.7]

No person shall ski or tow water skiers within 500 feet from the shore of Lake Macatawa.

Sec. 13-6. Fishing. [Code 1955, § 6-2.9]

No person shall fish from any boat in any anchorage or in the ship channel, unless such person shall give the right-of-way to all passing craft legally in such places.

Sec. 13-6.1. Swimming or diving—generally. [Ord. No. 816]

No person shall dive from, or swim in the waters near or adjacent to, any dock, wharf, pier, launching ramp or similar landing strip or property owned, controlled or operated by the City abutting Lake Macatawa unless such areas are expressly designated for diving or swimming. This section shall not prohibit maintenance or repair work on any dock, wharf, pier, launching ramp or similar landing strip authorized by the City Manager or his or her designated representative.

Sec. 13-6.2. Signs to be posted in prohibited areas. [Ord. No. 816]

The City Manager, or his or her designated representative, is hereby authorized to construct, place or erect signs or other notices prohibiting diving and swimming in those areas designated in Section 13-6.1 hereof.

Sec. 13-6.3. Kollen Park boat launch ramp. [Ord. No. 1533, 5-13-2009]

(a) Definitions. The following words as used in this section shall be defined as provided herein. All other words and phrases shall be defined as they are in the ordinary and customary usage.

(1) PERMIT — The daily or seasonal sticker or decal issued by the City of Holland evidencing payment of required fees for the use of the Kollen Park boat launch facility from the pay station located at Kollen Park.

(2) MOTOR VEHICLES — Any and all kinds or types of motor-driven or motor-propelled automobiles, trucks, motorcycles, motor scooters, mopeds, and any kind or type of off-road or all-terrain vehicle.

(3) LITTER — Any offal or refuse, including, but not limited to paper, cans, bottles, and animal feces.

(4) PETS — Dogs, cats, horses, or other domesticated animal or any other animal under the custody or control of a person.

(5) WATERCRAFT — Any and all kinds or types of flotation vessels designated for use on the water whether or not motorized, including, but not limited to, boats, canoes, kayaks, jet skis, ski-doos, pedal craft, pontoon boats, inflatable craft, tubes, or wind-propelled surf boards.

(6) KOLLEN PARK BOAT LAUNCH RAMP — The launch owned and operated by the City for purposes of launching and recovering watercraft at Kollen Park.

(7) POWER LAUNCHING/RECOVERY — Watercraft driven onto or off of trailers by the watercraft's propulsion system. This means that launched watercraft must be floated and the trailer then pulled out from beneath; and that recovered vessels must be floated onto or pulled onto the trailer by a winch or other mechanism.

(b) Required permit. No person shall use the Kollen Park boat launch ramp to launch any watercraft into or retrieve any watercraft from the waters of Lake Macatawa without first securing a permit ("permit") and paying the appropriate fee in an amount established by resolution of the Holland City Council.

(c) Posting of permit. The permit shall be visibly posted on the windshield or dashboard of the motor vehicle used to trailer or transport the watercraft to the Kollen Park boat launch ramp.

(d) Prohibited conduct. No person, firm, or corporation shall engage in any of the following conduct at the Kollen Park boat launch ramp:

(1) Occupy or use any portion of the Kollen Park boat launch ramp area for purposes of overnight camping.

(2) Utilize the Kollen Park boat launch ramp for any swimming or diving activities.

(3) Possess any type of fireworks or explosives within any portion of the Kollen Park boat launch ramp facility area.

(4) Allow a pet to run loose at any time within the Kollen Park boat launch ramp area. For purpose of this section, "allow a pet to run loose" shall mean that the pet is neither on a leash held by, nor otherwise under the immediate control, of the person in custody of the pet.

(5) Damage, destroy, deface, or remove any tree, shrub, planting, fence, sign, marker, or other equipment or structure, including the pay station, within the Kollen Park boat launch ramp area.

(6) Light or maintain a fire within the Kollen Park boat launch ramp area.

(7) Deposit or cause any litter to remain in the Kollen Park boat launch ramp area, including but not limited to any fecal material generated by the pets or animals under the control of any person.

(8) Fail to observe any of the requirements of the permit or fail to abide by the rules and regulations for the use of the Kollen Park boat launch ramp area.

(9) Leave unattended any launched or moored watercraft at any time.

(10) Engage in the practice of power launching or power recovery of any watercraft.

(11) The commercial use of the Kollen Park boat launch ramp area, including but not limited to the launching of commercial watercraft, dredge cranes or pile drivers by a marine contractor, and the maintenance of watercraft by a marina or other similar activities.

(e) Permit term. A permit may be terminated or revoked for violating any City ordinance provision; for violating any of the posted rules for use of the Kollen Park boat launch ramp; for damage to the ramp facility; or for any criminal act in connection with the use of that facility for a watercraft launch or retrieval at the Kollen Park facility. The City Manager may make such additional rules and regulations regarding the use of the Kollen Park boat launch ramp consistent with this section, the City Charter, the Ordinance Code, and the laws of the State of Michigan as may be necessary to promote and protect the health, safety, and welfare at the Kollen Park boat launch ramp.

(f) General penalties/civil infraction. Any person who violates or participates with another in a violation of any provision of this section is responsible for a Class I municipal civil infraction and subject to the provisions of Section 2-118 as a Class I civil infraction, including any costs which may be imposed by a court of competent jurisdiction. Each separate act in violation of this section (i.e., launching and retrieving are separate acts) shall be separate offenses. The service of citations or municipal civil infractions under this section may be served by personal delivery, by first class mail, or by affixing the citation to the vehicle, watercraft, or trailer in violation of this section. The City may also seek from a court of competent jurisdiction other remedies to prevent future violations and such other remedies as provided by Section 1-10.2 of the Ordinance Code.

In addition to the sanctions provided in this section for the violation of its provisions, any person who is determined to be responsible for a municipal civil infraction because of any damage that he or she has caused to the Kollen Park boat launch facility area shall reimburse the damage for which the person is responsible, and if that person is

responsible for an act of vandalism (including but not limited to graffiti), that person shall reimburse the City for up to three times the amount of damages, as determined by the court.

ARTICLE II
Boats Generally

Sec. 13-7. Definition. [Code 1955, § 6-2.1]

The word "boat" shall be deemed to mean and include every kind of craft, vessel, barge, raft, float or scow, whether power driven, sail, or otherwise propelled, and hydroplanes when upon the water.

Sec. 13-8. Rules and regulations generally. [Code 1955, § 6-2.2]

No person shall handle or moor any boat in such fashion as to interfere with other boats or endanger them. The Pilot Rules as prescribed by the United States Department of Commerce shall be applicable as the general rules for safe conduct.

Sec. 13-9. Speed regulations, generally. [Code 1955, § 6-2.8]

No person shall operate any boat at a speed greater than is reasonable and prudent, having due regard for the conditions then existing.

Sec. 13-10. Speed through anchorages. [Code 1955, § 6-2.6]

No boats shall proceed through anchorages at a speed in excess of four miles per hour.

Sec. 13-11. Speed of certain boats when passing other boats. [Code 1955, § 6-2.3]

Boats more than 30 feet in length shall not pass within 60 feet of each other at a speed of more than 15 miles per hour. When passing smaller boats, such as rowboats, canoes and the like, all power driven boats shall slow down so that small craft will not be endangered.

Sec. 13-12. Wake from power driven boats. [Code 1955, § 6-2.4]

No power driven boats may proceed so as to throw a wake of more than one foot in height, when within 100 feet of a rowboat, canoe or small sailboat.

Sec. 13-13. Report of damage by or to boats. [Code 1955, § 6-2.5]

Any person operating a boat which causes damage to any other boat or to any dock or other property shall report such damage forthwith to the Chief of Police.

Sec. 13-14. Commercial boats—requirements generally. [Code 1955, § 6-2.10]

No person shall offer for hire any boat unless such boat has been inspected by the sheriff of the county, as required by state law, and meets the safety standards established thereby.

Sec. 13-15. Carrying passengers for hire. [Code 1955, § 6-2.11]

No person shall carry any passenger for hire in a boat which is not subject to federal inspection unless such boat is inspected by the Chief of Police who shall determine whether or not it complies with federal standards of safety.

Sec. 13-16. Occupying boat in harbor for residence purposes. [Code 1955, § 6-2.12]

No person shall use or occupy any boat for residence purposes anywhere within the harbor for a period exceeding 48 hours without permission of the Chief of Police.

ARTICLE III
Special Local Watercraft Controls

Sec. 13-17. Definitions. [Ord. No. 677; amended 1-17-2018 by Ord. No. 1710]

All words and phrases used in this article shall be construed and have the same meanings as those words and phrases defined in MCLA § 324.80101 et seq., Marine Safety, as amended.

Sec. 13-18. Slow—no-wake speed—Lake Macatawa, "The Narrows." [Ord. No. 677; Ord. No. 1289, 1-3-2001; 6-1-2016 by Ord. No. 1670; 6-7-2017 by Ord. No. 1692]

(a) On the waters of Lake Macatawa, known as "The Narrows," on that portion bound to the west by longitudinal line 86° 10' 0.76" W (-86.16688) and to the east by longitudinal line 86° 9' 16.110" W (-86.15447), within the City of Holland, County of Ottawa, State of Michigan, it is unlawful for:

(1) The operator of a vessel 26 feet or more in length to exceed a slow no-wake speed.

(2) The operator of a vessel less than 26 feet in length to exceed a slow no-wake speed when within 200 feet of any shore, dock, or pier head, and within the jurisdictional boundaries of the City of Holland.

(b) The longitudinal line 86° 10' 0.76" W (-86.16688) is approximated by extending Old Orchard Road (western City boundary) north to the northern City boundary. The longitudinal line 86° 9' 16.110" W (-86.15447) can be approximated by extending a line south from the navigational aid, Point Superior Light 7, to the southern shore of Lake Macatawa.

(c) The boundaries of the area described above shall be marked with signs and/or with buoys and maintained by the City. All buoys must be placed as provided in a permit issued by the Department of Natural Resources and be in conformance with the State

Uniform Waterway Marking system. Buoys shall not be placed in a commercial shipping channel.

Sec. 13-19. Lake Macatawa, Kollen Park. [Ord. No. 677; Ord. No. 849; 6-1-2016 by Ord. No. 1670; 6-7-2017 by Ord. No. 1692]

On the waters of Lake Macatawa, on that portion of the lake located within the City of Holland and being east of a line beginning where Thomas Street as extended meets the water's edge and thence north to the City's northern boundary and west of a line beginning where Washington Boulevard as extended intersects the water's edge and thence north to the City's northern boundary, City of Holland, County of Ottawa, State of Michigan, it is unlawful for:

(a) The operator of a vessel less than 26 feet in length to exceed a slow — no-wake speed when within 200 feet of any shore, dock or pierhead; and

(b) The operator of a vessel 26 feet or more in length to exceed a slow — no-wake speed when within 600 feet of any shore, dock or pierhead.

Sec. 13-19.1. Slow—no-wake speed—Lake Macatawa. [Ord. No. 1412, 5-4-2005; Ord. No. 1424, 9-21-2005; 6-1-2016 by Ord. No. 1670]

On the waters of Lake Macatawa, on that portion of the lake located within the City of Holland and being east of a line beginning where Thomas Avenue, as extended, intersects the water's edge and thence north to the City's northern boundary and west of a line beginning where Cleveland Avenue, as extended, intersects the water's edge, and thence northwesterly to the City's northern boundary, City of Holland, County of Ottawa, State of Michigan, it is unlawful for the operator of a vessel, 26 feet or greater in length, to exceed a slow — no-wake speed.

The boundaries of the area described immediately above shall be marked with signs and with buoys. All buoys must be placed as provided in a permit issued by the Department of Natural Resources and be in conformance with the State Uniform Waterway Marking System.

Sec. 13-20. Macatawa River. [Ord. No. 677]

On the waters of the Macatawa River, City of Holland, County of Ottawa, from a line where Fourth Street as extended west intersects the water's edge and thence northeasterly to the nearest north shore, upstream to a point 1,500 feet upstream from the North River Avenue bridge, it is unlawful for the operator of a vessel to exceed a slow — no-wake speed.

Sec. 13-21. Lake Macatawa. [Ord. No. 1028, 11-6-1991]

Within the area hereafter described, on the waters of Lake Macatawa within the City of Holland, Ottawa County, it is unlawful for the operator of a vessel to exceed a slow — no-wake speed. Commencing at a point where Thomas Avenue meets the water's edge, due north to the south side of the shipping channel, then northeast along the south side of the shipping channel to a point of intersection with Cleveland Avenue extended, due south along

Cleveland Avenue extended to the shore. The boundary of the area to be marked with buoys placed pursuant to permit issued by the Michigan Department of Natural Resources.

Chapter 14

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ARTICLE I
In General

Sec. 14-1. Tax exemption established by certain state law not applicable to housing projects within City. [Ord. No. 1341, 7-17-2002[1]]

In accordance with Subsection (5) of Section 15a of Act No. 346 of the Public Acts of 1966, as amended, and by Act No. 334 of the Public Acts of 1968, as amended by Act No. 109 of the Public Acts of 1969, the tax exemption established in Subsection (1) of Section 15a of Act No. 346 of the Public Acts of 1966, as amended, shall not apply to all or any class of housing projects within the boundaries of the City to which such Subsection (1) applies.[2]

ARTICLE II
Housing-Property Maintenance Code

DIVISION 1
Administration and Enforcement

Sec. 14-2. Short title; purpose; scope. [Ord. No. 1341, 7-17-2002]

(a) Short title. This article shall be known as the "Minimum Properties Standards Code of the City of Holland" for all structures and properties and is herein referred to as "the Housing-Property Maintenance Code" or "this article."

(b) Purpose. The purpose of this article is to protect the public health, safety and welfare in buildings and on the premises as hereinafter provided by:

(1) Establishing minimum standards for basic equipment and facilities for light, ventilation, space heating and sanitation; for safety from fire; for space, use and location; for safe and sanitary maintenance; and for cooking equipment in all structures now in existence;

(2) Fixing the responsibilities of owners, operators and occupants of all structures; and

(3) Providing for administration, enforcement and penalties.

(c) Scope generally. The provisions of this article shall apply to all structures and premises which are now, or may become in the future, substandard with respect to structure,

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1. **Editor's Note: This ordinance also amended and restated Ch. 14 in its entirety. Former Ch. 14 was adopted by Ord. No. 555, amended by Ord. No. 574; Ord. No. 862; Ord. No. 875; Ord. No. 878; Ord. No. 880; Ord. No. 906, adopted 7-16-1986; Ord. No. 919, adopted 3-4-1987; Ord. No. 922, adopted 4-1-1987; Ord. Nos. 961, 962 and 963, adopted 9-21-1988; Ord. No. 1021, adopted 7-10-1991; Ord. Nos. 1022 and 1023, adopted 7-10-1991; Ord. No. 1051, adopted 5-6-1992; Ord. No. 1069, adopted 10-7-1992; Ord. No. 1080, adopted 3-31-1993; Ord. No. 1124, adopted 9-24-1994; Ord. No. 1201, adopted 10-1-1997; and Ord. No. 1263, adopted 9-15-1999.**

2. **Editor's Note: See MCLA § 125.1415a.**

premises, protection against fire hazard, equipment or maintenance, inadequate provisions for light and air, lack of proper heating, unsanitary conditions, overcrowding or welfare of their occupants. The existence of such conditions, factors or characteristics adversely affects public safety, health and welfare and leads to the continuation, extension and aggravation of urban blight. Adequate protection of the public, therefore, requires the establishment and enforcement of these minimum standards.

(d) Applicability to travel trailers and mobile homes. All moveable units used for human occupancy, and the areas, grounds or parcels on which they are located, insofar as they are applicable thereto shall comply with the requirements of this article.

Sec. 14-3. Applicability of article to related ordinances and existing buildings. [Ord. No. 1341, 7-17-2002; amended 8-1-2012 by Ord. No. 1589]

(a) Generally. Every portion of a building or premises used or intended to be used shall comply with the provisions of this article, irrespective of when such building shall have been constructed, altered or repaired, except as hereinafter provided.

(b) Construction Codes. Any alterations to buildings, or changes of use therein, which may be caused, directly or indirectly, by the enforcement of this article shall be done in accordance with applicable sections of the Construction Codes of the City.

(c) Zoning Law. Nothing in this article shall permit the establishment or conversion of a multifamily dwelling in any zone district except where permitted by the Zoning Law, or the continuation of such nonconforming use in any zone except as provided therein.

(d) Conflict with other ordinances. In any case where a provision of this code conflicts with the provision of any zoning, building, fire, safety, or health ordinance or Code of the City of Holland, the provision which establishes the higher standard for the promotion and protection of safety and health of the people shall prevail. In any case where a provision of this code conflicts with a provision of any other ordinance or code of the City of Holland and the other ordinance or code establishes a lower standard for the promotion and protection of the safety and health of the people, the provisions of this code shall prevail. In any case where a provision of this code conflicts with the provision of any other ordinance or code of the City of Holland and the provisions of this code and the provisions of the other ordinance or code establish comparable standards for the safety and health of the people, the enforcing officer shall allow compliance with either code or ordinance.

(e) Existing buildings. This article establishes minimum requirements for the initial and continued occupancy of all buildings and structures and does not replace or modify requirements otherwise established for the construction, repair, alteration or use of buildings, equipment or facilities, except as provided in this section.

(f) Existing remedies. Nothing in this article shall be deemed to abolish or impair existing remedies of the City or its officers or agencies relating to the removal or demolition of any buildings which are deemed to be dangerous, unsafe or unsanitary.

(g) Workmanship. Repairs, maintenance work, alterations or installations which are required or caused directly or indirectly by the enforcement of this article shall be

executed and installed in a workmanlike manner and installed in accordance with the manufacturer's instructions.

Sec. 14-4. Enforcement authority. [Ord. No. 1341, 7-17-2002; amended 8-1-2012 by Ord. No. 1589]

(a) Enforcing officer. It shall be the duty and responsibility of the Department of Community and Neighborhood Services to enforce the provisions of this article as herein provided. The term "enforcing officer" shall mean the Director of the Department of Community and Neighborhood Services or his or her duly authorized representative.

(b) Coordination of enforcement. Inspection of premises and the issuing of orders in connection therewith under the provisions of this article shall be the exclusive responsibility of the enforcing officer. Wherever, in the opinion of the enforcing officer, it is necessary or desirable to have inspections of any condition by any other department, he or she shall arrange for this to be done in such manner that the owners or occupants of buildings shall not be subjected to visits by numerous inspectors or to multiple or conflicting orders, to the extent reasonably practicable under the circumstances. No order for correction of any violation under this article shall be issued without the approval of the enforcing officer.

(c) Administrative liability. Except as may otherwise be provided by the state statute, local law or ordinance, an officer, agent or employee of the City charged with the enforcement of this article shall not render himself or herself personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his or her duties under this article. A person who institutes or assists in the prosecution of a criminal proceeding under this article shall not be liable for damages hereunder, as long as the person who institutes or assists in the prosecution has reasonable cause to believe that the party accused or prosecuted was guilty of any unlawful act or omission. Any suit brought against any officer, agent or employee of the jurisdiction, as a result of any act required or permitted in the discharge of his or her duties under this article, shall be defended by the legal representative of the jurisdiction until the final determination of the proceedings.

(d) Inspections. The enforcing officer may make or cause to be made inspections to determine the conditions of all structures and premises in order to safeguard the safety, health and welfare of the public under the provisions of this article.

(e) Right of entry. When an inspection shall be made, the enforcing officer may request permission to enter the premises at any reasonable time for the purpose of performing his or her duties under this article. Permission to access the premises may be granted by the owner of the premises, his or her agent, and a tenant occupying the premises or any other occupant of the premises. If there is an emergency, then the enforcing officer shall have the right to enter at any time.

(f) Warrants for nonemergency situations. In a nonemergency situation where the owner, his or her agent, a tenant or other occupant of the premises demands a warrant for the inspection of the premises, the enforcing officer shall obtain a warrant from a court of competent jurisdiction. The enforcing officer shall prepare the warrant, stating the

address of the structure to be inspected, the nature of the inspection as defined in this article or other applicable acts, and the reason(s) for the inspection. It shall be appropriate and sufficient to set forth the basis for inspection (e.g. complaint, compliance, etc.) established in this article and other applicable acts or in rules or regulations. The warrant shall also state that it is issued pursuant to this subsection, and that it is for the purposes set forth in this article and other acts which require that inspections be conducted. If the court finds that the warrant is in proper form and in accord with this subsection, then it shall issue the warrant forthwith. In the event of an emergency, no warrant shall be required.

(g) Access by owner. Every tenant or other occupant of a property in the City shall give the owner thereof, or his or her agent or employee, access to any part of the premises at reasonable times for the purpose of making such inspections, maintenance, repairs or alterations as are necessary to comply with the provisions of this article.

(h) Rules and regulations. The Department of Community and Neighborhood Services shall adopt rules to govern the procedures under this division and interpretation thereof. The rules shall set forth the procedures for inspections, registration of rental units, issuance of rental certificates of compliance and temporary rental certificates of compliance, proceedings affecting the status of a certificate and appeals. Copies of such rules shall be placed on file in the office of the City Clerk for inspection by the public.

Sec. 14-4.1. Condemnation of dangerous or unsafe structures. [Ord. No. 1341, 7-17-2002; amended 8-1-2012 by Ord. No. 1589; 2-15-2017 by Ord. No. 1695; 1-17-2018 by Ord. No. 1711]

(a) Generally. Structures shall be condemned as dangerous structures or unsafe for human occupancy as herein provided.

(b) Dangerous structures. If all or part of any building or structure (including, among others, a fence, billboard or sign) or the equipment for the operation thereof (including, among others, the heating plant, plumbing, electric wiring, moving stairways, elevators and fire-extinguishing apparatus) shall be found, in the opinion of the enforcing officer, to be in an unsafe condition or dangerous to life, limb or property, the enforcing officer shall proceed to have the same condemned pursuant to the applicable provisions of codes of the City or the state pertaining to unsafe structures including but not limited to the procedures under Chapter 19 for dangerous structures.

(c) Structures unfit for human occupancy. Whenever the enforcing officer finds that any structure constitutes a hazard to the safety, health or welfare of the occupants or to the public because it lacks maintenance; or is in disrepair, unsanitary or vermin-infested; or lacks the sanitary facilities or equipment, or lacks proper means of disposal of refuse as defined in Section 27-1 of the Holland City Code; or otherwise fails to comply with the minimum provisions of this article, but has not yet reached such state of complete disrepair as to be condemned as a dangerous structure as hereinbefore provided, he or she may declare such structure as unfit for human occupancy and order it to be vacated.

(d) Notice - generally. Notice of the declaration of any building under this article as unfit for human occupancy and the order to vacate it shall be served as provided in this

article or such other codes or ordinances of the municipality pertaining to unsafe buildings.

(e) Same - posting. Any structure declared as unfit for human occupancy shall be posted with a placard by the Building/Zoning Administrator. The placard shall include the following:

(1) The name of the City;

(2) The name of the authorized department having jurisdiction;

(3) The chapter and section of the Code under which it is issued;

(4) An order that the structure, when vacated, must remain vacant until the provisions of the order are complied with and the order to vacate is withdrawn;

(5) The date that the placard is posted; and

(6) A statement of the penalty for defacing or removing the placard.

(f) Same - form. Whenever the enforcing officer has declared a structure as unfit for human habitation, he or she shall give notice to the owner of such declaration and placarding of the structure as unfit for human occupancy. Such notice shall:

(1) Be in writing;

(2) Include a description of the real estate sufficient for identification;

(3) Include a statement of the reasons why it is being issued;

(4) State the time to correct the conditions; and

(5) State the time the occupants must vacate the structure.

(g) Same - service. Notice of violation shall be served upon the owner of record, provided that such notice shall be deemed to be properly served upon such owner if a copy thereof is delivered to him or her personally, or if he or she is not found, by leaving a copy thereof at his or her usual place of abode with a person of suitable age and discretion, who shall be informed of the contents thereof, or by sending a copy thereof by certified mail to his or her last known address, or, if the letter with the copy is returned showing it has not been delivered to him or her, by posting a copy thereof in a conspicuous place or on or about the structure affected by the notice.

(h) Same - unauthorized removal of placard or notice. A person shall not deface or remove the placard from any structure that has been declared or placarded as unfit for human habitation, except by authority in writing from the enforcing officer. A violation of this subsection shall be a misdemeanor subject to the penalties under Section 1-10 of the Holland City Code and shall be deemed a nuisance per se.

(i) Vacating of placarded building. Any structure that has been declared and placarded as unfit for human occupancy by the enforcing officer shall be vacated within a reasonable time as required by the enforcing officer, and it shall be unlawful for any owner or operator to let any person continue to occupy or reside in structure, and a person shall not occupy any structure that has been declared or placarded by the enforcing officer as

unfit for human occupancy after the date set forth in the placard. A violation of this subsection shall be a misdemeanor subject to the penalties under Section 1-10 of the Holland City Code and shall be deemed a nuisance per se.

(j) Written approval for occupancy of building. A structure that has been declared or placarded as unfit for human occupancy shall not again be used for human occupancy until written approval is secured from the enforcing officer. The enforcing officer shall remove such placard whenever the defects upon which the declaration and placarding action were based have been eliminated.

(k) Furnishing copies of notice to other City departments or officials. The enforcing officer may furnish a copy of each notice to vacate a building to the Department of Public Safety and any other designated official of the City concerned therewith.

Sec. 14-4.2. Violations. [Ord. No. 1341, 7-17-2002; amended 8-1-2012 by Ord. No. 1589]

(a) Notice – Service. Notice of violation shall be served upon the owner of record, provided that such notice shall be deemed to be properly served upon such owner if a copy thereof is delivered to him or her personally, or if he or she is not found, by leaving a copy thereof at his or her usual place of abode with a person of suitable age and discretion, who shall be informed of the contents thereof, or by sending a copy thereof by mail to his or her last known address, or, if the letter with the copy is returned showing it has not been delivered to him or her, by posting a copy thereof in a conspicuous place or on or about the structure affected by the notice.

(b) Same – Contents. Whenever the enforcing officer determines that there has been or is a violation, or that there are reasonable grounds to believe that there has been or is a violation, of any provision of this article, he or she shall give notice of such violation or alleged violation to the person responsible therefor. Such notice shall:

(1) Be in writing;

(2) Include a description of the real estate sufficient for identification;

(3) Specify the violation which exists and the remedial action required; and

(4) Allow a reasonable time for the performance of any act it requires.

(c) Same – Noncompliance; legal action or proceeding. In case any notice of violation is not complied with within the time set forth in the notice, the enforcing officer may issue a citation for a municipal civil infraction or request the City Attorney to institute an appropriate action or proceeding at law or in equity against the person responsible for the violation, ordering him or her:

(1) To restrain, correct or remove the violation or refrain from any further execution of work;

(2) To restrain or correct the erection, installation or alteration of such building;

(3) To require the removal or work in violation;

(4) To prevent the occupation or use of the building, structure or part thereof erected, constructed, installed or altered in violation of, or not in compliance with, the provisions of this article, or in violation of a plan or specification under which an approval, permit or certificate was issued;

(5) To comply with the penalty provisions of this article; or

(6) To pay the attorney fees and costs incurred by the City with respect to the action or proceeding at law or in equity and the administrative expense incurred by the City in efforts to enforce the notice of violation.

(d) Change in ownership; sale or transfer of premises. A person shall not sell or transfer premises which are subject to an outstanding housing order unless a copy of the order issued by the enforcing officer is provided to the person acquiring the premises at the time of sale or transfer of the premises.

(e) Seller's notice to City upon sale or transfer of premises. The person selling or transferring the premises shall notify the City of same in writing within 10 days of transferring ownership of the premises subject to the outstanding housing order. The notice to the City shall include the name, address and telephone number of the person acquiring the premises and the effective date of the transfer of ownership. The City shall immediately issue a new housing order to the person acquiring the premises. The person selling or transferring the premises who has failed to comply with an outstanding housing order shall not be relieved of the responsibility of having violated any provision of this article by selling or transferring the premises.

Sec. 14-4.3. Appeals and administrative variances. [Ord. No. 1341, 7-17-2002; amended Ord. No. 1480, 9-5-2007; Ord. No. 1544, 4-14-2010; Ord. No. 1579, 1-18-2012; 8-1-2012 by Ord. No. 1589; 6-17-2015 by Ord. No. 1651]

(a) Housing Board of Appeals established. The City establishes a Housing Board of Appeals pursuant to this section. The Housing Board of Appeals shall have six members and two alternates. The members of the Housing Board of Appeals shall be the same as the members of the Zoning Board of Appeals. The alternate members of the Housing Board of Appeals shall be the same as the alternate members of the Zoning Board of Appeals. Notwithstanding the preceding sentences, the composition of members and their terms shall at all times be as required by MCLA § 125.541c.

(b) Board duties. The Housing Board of Appeals shall hear appeals from decisions of the enforcing officer and shall act upon questions relating to the administration, enforcement and interpretation of this article, including variances from the requirements of this article. The Housing Board of Appeals shall conduct its hearings in accordance with this section and such other sections of this Code.

(c) Appeal of enforcing officer order; public hearing. Any aggrieved party, including an occupant, may appeal an order issued by the enforcing officer to the Housing Board of Appeals. The Housing Board of Appeals shall hold a public hearing to review the decision of the enforcing officer and shall allow the enforcing officer and the aggrieved party and any other person to be heard and present evidence.

(d) Staying of an order. An appeal shall stay an order denying or suspending a rental certificate of compliance, unless such suspension is for a major violation. In such cases, an appeal shall not stay the suspension of the rental certificate of compliance, unless the Director of the Department of Community and Neighborhood Services orders that it be stayed.

(e) Administrative variances.

(1) Ceiling height requirements. Upon a written request of a property owner, the enforcing officer may grant an administrative variance from the existing ceiling height requirements imposed under this Code if the enforcing officer determines that all of the following conditions are met:

a. An inspection of the property reveals that it fully complies with this Code (except as to ceiling height) including light and ventilation requirements and floor area to height ratio requirements;

b. Any ceiling light fixtures in the rooms covered by the variance request are recessed;

c. The applicant does not request a variance greater than three inches from the ceiling height requirements under this Code; and

d. The applicant does not request a variance to allow a ceiling height of less than six feet eight inches in any room.

(2) Guardrail height requirements. Upon a written request of a property owner, the enforcing officer may grant an administrative variance from the existing guardrail height requirements imposed under this Code if the enforcing officer determines that all of the following conditions are met:

a. An inspection of the property reveals that it fully complies with this Code (except as to guardrail height);

b. The surface area below and/or immediately adjacent to the balcony, deck, landing, porch, stair or walking surface on which is located the guardrail for which the variance is sought is not hard-surfaced; that is, it shall not be a surface created out of asphalt, concrete, gravel, wood, or other hard-surface material;

c. The guardrail for which the variance is sought is at least 24 inches in height or more;

d. The general pattern of traffic on the balcony, deck, landing, porch, stair or walking surface is not right along the portion of the balcony, deck, landing, porch, stair or walking surface where the guardrail for which the variance is sought is located;

e. The surface area of the balcony, deck, landing, porch, stair or walking surface on which is located the guardrail for which the variance is sought is not more than six feet directly above the floor, grade, ground or surface area below, measured perpendicularly; and

f. Spindle spacing and handrail height comply with this Code.

(3) Room width requirements. Upon a written request of a property owner, the enforcing officer may grant an administrative variance from the existing room width requirements imposed under this Code if the enforcing officer determines that all of the following conditions are met:

a. The room is an existing room, not a proposed room;

b. An inspection of the property reveals that it fully complies with this Code (except as to room width) including, but not limited to, light and ventilation requirements and ceiling height, and the room in question has a minimum of 70 square feet of qualifying floor area;

c. The room has a window which is either an approved egress window, or is as large as any other bedroom windows in the structure;

d. The room cannot be made wider without substantial reconstruction, including, but not limited to: relocation of exterior or bearing walls, relocation of a stairway, or relocation of plumbing or mechanical equipment. Substantial construction does not include the removal of a closet or the relocation of a nonbearing partition wall;

e. The room is equipped with a hard-wired, interconnected smoke detector inside the room in addition to other smoke detectors required by this Code;

f. The room does not require, and has not been granted, an administrative ceiling height variance;

g. The door and the required window in the room are not, and shall not be, obstructed by furniture or other materials; and

h. The room, at any point in the room, is not less than six feet nine inches in width.

(4) Accommodations for persons with disabilities. Upon a written request of an eligible person (as defined in Section 39-17.4), the enforcing officer may grant an administrative variance from requirements imposed under this Chapter 14 if the enforcing officer determines that all of the following conditions are met:

a. The housing subject to the request for reasonable accommodation will be used by individuals with disabilities protected under fair housing laws;

b. The requested accommodation is reasonable and necessary to make housing available to an individual with disabilities as required under the fair housing laws;

c. The requested accommodation will not impose an undue financial or administrative burden on the City;

d. The requested accommodation will not require a fundamental alteration in the nature of the City's housing program; and

e. There are no alternative accommodations which may provide an equivalent level of benefit to the applicant.

(f) Appeals. Any owner or person who is aggrieved by the ruling or decision of the enforcing officer in any matter relative to an administrative variance or the interpretation or enforcement of any of the provisions of the Housing-Property Maintenance Code may appeal the decision or interpretation to the Housing Board of Appeals.

(g) Filing. Such appeal must be filed with the City Clerk, in writing, within 30 days of the date of the issuance of the decision or interpretation. An appeal shall not be received if the City has commenced prosecution proceedings pursuant to Section 14-4.2(c).

(h) Decision; Housing Board of Appeals. The appeal shall be decided by the following procedure:

(1) The Housing Board of Appeals shall hold a public hearing to hear evidence of violations from the enforcing officer and the appellant. The appellant shall attend in person or may be represented by legal counsel.

(2) The Housing Board of Appeals shall render its decision not more than 60 days after the conclusion of the hearing. The failure to decide an appeal within 60 days shall be deemed a denial. The decision of the Housing Board of Appeals shall include findings of fact and conclusions of law based upon the evidence presented by the enforcing officer and appellant. Witnesses and other documentary evidence shall be permitted in the proceedings before Housing Board of Appeals.

(3) The Housing Board of Appeals shall have the authority and jurisdiction to affirm, amend or reverse the decision or interpretation of the enforcing officer. The Housing Board of Appeals shall also have the authority and jurisdiction to grant a variance from this article for any requirement if compliance with the requirement imposes undue burden upon the applicant due to unforeseen uses or circumstances or an alternate proposal will satisfy the spirit of the requirements of this chapter. The Housing Board of Appeals shall not have the authority to grant a variance from any of the requirements of this article unless it determines that the health, welfare, and safety of occupants of the affected property will not be compromised. The Housing Board of Appeals may not grant a variance from or waive any fees or late charges.

Sec. 14-4.4. Severability; saving clause. [Ord. No. 1341, 7-17-2002]

(a) Severability. If any section, subsection, paragraph, sentence, clause or phrase of this article shall be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of this article, which shall continue in full force and effect, and to this end the provisions of this article are hereby declared to be severable.

(b) Saving clause. This article shall not affect violations of any other ordinance, code or regulation of the City existing prior to March 13, 1985, and any such violation shall be governed and shall continue to be punishable to the full extent of the law under the

provisions of those ordinances, codes or regulations in effect at the time the violation was committed.

DIVISION 2
Definitions

Sec. 14-4.5. Generally. [Ord. No. 1341, 7-17-2002]

(a) Scope. Unless otherwise expressly stated, the terms listed in this division shall, for the purposes of this article, have the meanings indicated.

(b) Tense; gender; number. Words used in the present tense include the future; words in the masculine gender include the feminine and neuter, and the singular number includes the plural and the plural the singular.

(c) Terms defined in other codes. Where terms are not defined in this article and are defined in the Michigan Construction Codes, they shall have the same meanings ascribed to them in those codes.

(d) Terms not defined. Where terms are not defined, through the methods authorized by this section, they shall have their ordinarily accepted meanings, such as the context may imply.

Sec. 14-4.6. Words and phrases defined. [Ord. No. 1341, 7-17-2002; amended 8-1-2012 by Ord. No. 1589; 4-18-2018 by Ord. No. 1733]

For the purposes of this article, and in accordance with Section 14-4.5, the following words and phrases shall have the meanings respectively ascribed to them by this section:

APPROVED — As applied to a material, device or method of construction, approved by the Code Official under the provisions of this article, or approved by other authority designated by law to give approval in the matter in question.

BASEMENT — That portion of a building that is partly or completely below grade.

BATHING ROOM — A room with a bathtub or shower and with a latching door so as to give privacy to a person in the room.

BATHROOM — A room with a bathtub or shower, toilet, sink and with a latching door so as to give privacy to a person in the room.

BUILDING/ZONING ADMINISTRATOR — The Director of the Department of Community and Neighborhood Services, or his or her duly authorized representative.

CENTRAL HEATING — The heating system permanently installed and adjusted so as to provide the distribution of heat to all habitable rooms, bathrooms and water closet compartments from a source outside of these rooms.

CONDEMN — To adjudge unfit for use or occupancy.

CONDEMNATION — The act of judicially condemning.

CONSTRUCTION CODES — The Michigan Building Code, Michigan Residential Code, Michigan Electrical Code, Michigan Mechanical Code, and Michigan Plumbing Code are enforced by the City of Holland as resolved in Chapters 6 and 9 for the regulation of construction, alteration, addition, repair, removal, demolition, use, location, occupancy and maintenance of buildings and structures.

DEPARTMENT OF COMMUNITY AND NEIGHBORHOOD SERVICES — The Department of Community and Neighborhood Services of the City, formerly known as the "Department of Environmental Health."

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.

DWELLINGS —

(a) BOARDINGHOUSE — A building arranged or used for lodging, with or without meals, for compensation and not occupied as a single-family unit.

(b) DORMITORY — A space in a building where group sleeping accommodations are provided for persons not members of the same family group, in one room or in a series of closely associated rooms.

(c) HOTEL — Any building containing six or more guest rooms intended or designed to be used, or which are used, rented or hired out to be occupied, or which are occupied, for sleeping purposes by guests.

(d) MOTEL — A hotel as defined in this section.

(e) MULTIFAMILY APARTMENT HOUSE — A building or portion thereof containing more than two dwelling units.

(f) ONE-FAMILY DWELLING — A building containing one dwelling unit with not more than five lodgers or boarders.

(g) TWO-FAMILY DWELLING — A building containing two dwelling units with not more than five lodgers or boarders per family.

(h) ROOMING HOUSE — Any one- or two-family residential building, or any part thereof, containing one or more rooming units, in which space is let by the owner or operator to more than five persons who are not members of a family. (See "Dwellings, boardinghouse.")

(i) ROOMING UNIT — Any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating purposes.

ENFORCING OFFICER — The Director of the Department of Community and Neighborhood Services of the City, or his or her duly authorized representative.

EXTERIOR PROPERTY AREAS — The open space on the premises and on adjoining property under the control of owners or operators of such premises.

EXTERMINATION — The control and elimination of insects, rats or other pests by eliminating their harborage places; by removing or making inaccessible materials that may

serve as their food; by poison spraying, fumigating or trapping; or by any other approved pest-elimination methods.

FAMILY — As used in this article shall have the same meaning as set forth in Section 39-2.

GARBAGE — The animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food.

HABITABLE SPACE — Space in a structure for living, sleeping, eating or cooking. Bathrooms, toilet compartments, closets, halls, storage or utility space and similar areas are not considered habitable space.

INFESTATION — The presence, within or contiguous to a structure or premises, of insects, rats, vermin or other pests.

INVENTORY CHECKLIST — Such written itemization of the condition of a dwelling unit as required by the Michigan Security Deposit Act.[3]

LET FOR OCCUPANCY or LET — To permit possession or occupancy of a dwelling, dwelling unit, rooming unit, building or structure by a person, who shall be the legal owner or not be the legal owner of record thereof, pursuant to a written or unwritten lease, agreement or license.

LOCAL AGENT — The owner or designated representative of the owner who lives within 35 miles from the property and is available 24 hours a day, seven days a week to respond to and mitigate any complaints regarding a short-term rental.

MAINTENANCE — Acts of repair and other acts to prevent a decline in the condition of grounds, structures and equipment such that the condition does not fall below the standards established by this article and other applicable statutes, codes and ordinances.

MAJOR VIOLATION — Any violation of the provisions of this article or any code adopted by the City which poses a hazard or risk to the health and safety of the occupants of a dwelling unit, including any violation that substantially affects the habitability of the dwelling unit.

MINOR VIOLATION — Any violation of this article that is not deemed a major violation.

OCCUPANT — Any person having the right of possession or use of any premises, building or structure.

OPENABLE AREA — That part of a window or door that is available for unobstructed ventilation and that 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/OWNERSHIP — Any person, agent, operator, firm, partnership, limited liability company, trust or corporation having a 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

3. Editor's Note: See MCLA § 544.601 et seq.

possession of real property by a court. For the purposes of this article, ownership shall be presumed to be by the designated person or entity listed on the tax rolls maintained by the City for a structure or building, unless the enforcing officer is otherwise notified in writing. For a property owned by a partnership, limited liability company or corporation, each partner, member, trustee or shareholder shall be deemed to have an ownership interest for purposes of the sections regulating short-term rental units.

PERSON — A person or other entity capable of owning a dwelling pursuant to the laws of the state.

PLUMBING — The practice, materials and fixtures used in the installation, maintenance, extension and alteration of all piping, fixtures, appliances and appurtenances within the scope of the Michigan Plumbing Code.

PLUMBING FIXTURE — A receptacle or device that is either permanently or temporarily connected to the water distribution system of the premises and demands a supply of water therefrom, or discharges used water, liquid-borne waste materials or sewage, either directly or indirectly, to the drainage system of the premises, or that requires both a water supply connection and a discharge to the drainage system of the premises.

PREMISES — A lot, plot or parcel of land, including the buildings or structures thereon.

PUBLIC NUISANCE — Includes but is not limited to the following:

(a) The physical condition or use of any premises regarded as a public nuisance at common law; or

(b) Any physical condition, use or occupancy of any premises or its appurtenances considered an attractive nuisance to children, including, but not limited to, abandoned wells, shafts, basements, excavations and unsafe fences or structures; or

(c) Any premises that has unsanitary sewerage or plumbing facilities; or

(d) Any premises designated as unsafe for human habitation or use; or

(e) Any premises that is manifestly capable of being a fire hazard, or is manifestly unsafe or unsecured as to endanger life, limb or property; or

(f) Any premises from which the plumbing, heating and/or other facilities required by this article have been removed, or from which utilities have been disconnected, destroyed, removed or rendered ineffective, or where the required precautions against trespassers have not been provided; or

(g) Any premises that is unsanitary, or that is littered with rubbish or garbage, or that has an uncontrolled growth of weeds; or

(h) Any structure or building that is in a state of dilapidation, deterioration or decay or contains faulty construction; is overcrowded; is open, vacant or abandoned; is damaged by fire to the extent as not to provide shelter; or is in danger of collapse or failure and dangerous to anyone on or near the premises.

RENOVATION — The act of making a building and its facilities conform to present-day minimum standards of sanitation, fire and life safety.

RESIDENTIAL BUILDING — A building in which sleeping accommodations or sleeping accommodations and cooking facilities as a unit are provided, except when classified as an institution under the Construction Code.

RESPONSIBLE PERSON — The person who is responsible for correcting all major or minor violation(s), or both, pursuant to the provisions of Section 14-4.25.

RUBBISH — Combustible and noncombustible waste materials, except garbage, and including 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.

RULES — The rules as adopted by the Department of Community and Neighborhood Services as approved by City Council resolution.

SHORT-TERM RENTAL — A dwelling unit offered for rent in part or in its entirety for less than 30 consecutive days per occupant.

(a) OWNER-OCCUPIED — A dwelling unit where owners reside and rent or offer for rent one room up to 365 days per calendar year or the entire dwelling unit for up to 60 days while all owners are away.

(b) NONOWNER-OCCUPIED — A dwelling unit that is not an individual owner's residence, and is rented or offered for rent in its entirety for less than 30 consecutive days per occupant and is permitted by Chapter 39.

(c) TULIP TIME — A dwelling unit that is offered for rent in part or in its entirety for not more than 10 days during the designated Tulip Time Festival in May.

STRUCTURE — That which is built or constructed, including, without limitation because of enumeration, buildings for any occupancy of use whatsoever, fences, signs, billboards, fire escapes, chute escapes, railings, water tanks, towers, open-grade steps, sidewalks or stairways, tents or anything erected and framed of component parts which is fastened, anchored or rests on a permanent foundation or on the ground.

SUPPLIED — Installed, furnished or provided by the owner or operator.

TOILET ROOM — A room with a toilet/water closet and with a latching door so as to give privacy to a person in the room. A toilet room must either contain within the room a sink supplied with hot and cold running water or such a sink must be located in close proximity to the exterior of the room.

VENTILATION — The process of supplying and removing air by natural or mechanical means to or from any space.

(a) MECHANICAL — Ventilation by power-driven devices.

(b) NATURAL — Ventilation by opening to outer air through windows, skylights, doors, louvers or stacks without wind-driven devices.

WASHROOM — A room with a toilet, sink and with a latching door so as to give privacy to a person in the room.

WORKMANLIKE — Executed in a skilled manner, e.g., generally plumb, level, square, in line, undamaged, and without marring adjacent work.

YARD — An open, unoccupied space on the same lot with a building extending along the entire length of street or rear or interior lot line.

DIVISION 3
Environmental Requirements

Sec. 14-4.7. Generally. [Ord. No. 1341, 7-17-2002]

All properties covered by this article, whether or not occupied, shall be maintained in a clean, safe, secure and sanitary condition, so as not to cause a blighting problem or to adversely affect the public health or safety. Violations of this article causing a blighting problem or adversely affecting the public health or safety shall be violations of one or more of the sections of this division.

Sec. 14-4.8. Exterior premises. [Ord. No. 1341, 7-17-2002; amended 8-1-2012 by Ord. No. 1589; 4-18-2018 by Ord. No. 1733; 6-19-2019 by Ord. No. 1772]

(a) Sanitation. All exterior property areas and premises shall be maintained in a clean, safe and sanitary condition, free from the accumulation of rubbish and garbage.

(b) Containers. Occupants shall store all garbage, vegetable wastes or other organic materials that can rot and produce odors in leakproof, approved containers in accordance with § 27-5 of this Code.

(c) Grading and drainage. All premises shall be graded and maintained so as to prevent the accumulation of stagnant water thereon, or within any structure located thereon. "Stagnant water" is defined as any accumulation that has not dispersed within seven days of the last recorded rainfall. Water retention areas and/or reservoirs approved by the Code Official are exceptions to this subsection.

(d) Pest control. All exterior property and premises shall be kept free of circumstances that are harboring infestations of rodents or insects.

(e) Accessory structures. All accessory structures shall be maintained structurally sound and in good repair, so as to avoid a risk to public safety.

(f) Fences and retaining walls. All fences and retaining walls shall be maintained structurally sound and in good repair, so as to avoid an imminent risk to public safety.

(g) Open fires. Open fires shall be prohibited, except as specifically approved by the Fire Official.

(h) Sidewalks and driveways. All sidewalks, walkways, stairs, driveways, parking spaces and similar areas shall be kept in a workmanlike and proper state of repair, and maintained free from hazardous conditions.

(i) All short-term rentals shall provide two off-street parking spaces.

(j) Swimming pools, spas and hot tubs. All swimming pools, hot tubs and spas shall be maintained in good repair and be clean, safe and sanitary.

(1) Sanitary condition. No swimming pool, spa or hot tub shall have an accumulation of mold, algae, sedimentation or other condition that would create a breeding ground for insects, or encourage habitat of water fowl.

(2) Enclosures. Swimming pools, hot tubs and spas with a capacity to hold more than 24 inches of water shall be completely surrounded by a protective fence or other barrier to prevent accidental drownings. Fences and barriers shall be maintained as originally installed at the time of construction, or must meet the following minimum safety standards: fences and barriers shall be at least 48 inches in height above the finished ground on the side of the barrier away from the pool, hot tub or spa; gates and doors in the fence or barrier shall be self-closing and self-latching; self-latching device shall be at least 54 inches above the bottom of the gate or installed on the pool side of the gate. No existing pool enclosure shall be removed, replaced or changed in a manner that reduces its effectiveness as a safety barrier unless immediately replaced with a fence or barrier that complies with the requirements of this subsection. If more than 25% of the total fence or barrier is replaced, a building permit for a pool enclosure is required.

(3) Enclosure exceptions. Spas or hot tubs with a safety cover that locks, or complies with ASTM F 1346, shall be exempt from the preceding subsection. Pools with side walls at least 48 inches in height shall not require a secondary fence or barrier around the perimeter of the pool.

Sec. 14-4.9. Exterior structure. [Ord. No. 1341, 7-17-2002; amended 8-1-2012 by Ord. No. 1589; 4-18-2018 by Ord. No. 1733; 6-19-2019 by Ord. No. 1772]

(a) Generally. The exterior of all structures shall be maintained in good repair, structurally sound and sanitary, so as not to pose a threat to the health, safety or welfare of the occupants and so as to protect the occupants from the adverse effects of the environment.

(b) Street numbers. Each structure to which a street number has been assigned shall have the number so displayed in a position easily observed and readable from the public right-of-way. All assigned street numbers shall be shown in accordance with § 32-23.

(c) Structural members. All supporting structural members shall be maintained in a sound condition, free of deterioration and capable of safely bearing the dead and live loads imposed upon them.

(d) Exterior surfaces. Every foundation, exterior wall, roof and all other exterior surfaces shall be maintained in a reasonable state of maintenance and repair and shall be kept in such condition as to exclude rodents.

(e) Foundation walls. All foundation walls shall be maintained so as to carry the safe design and operating dead and live loads and shall be maintained plumb and free from open cracks and breaks, so as not to be detrimental to public safety and welfare.

(f) Exterior walls. Every exterior surface, including but not limited to walls, doors, door and window frames, window panes, cornices, porches, trim, balconies, decks and fences, shall be maintained in good condition and shall be free of holes, breaks, loose or rotting boards or timbers, broken or cracked glass and any other conditions which might admit rain or dampness to the interior portions of the walls or to the occupied spaces of the building. 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.

(g) Roofs and drainage. The roof shall be structurally sound and not have defects that might admit rain. Roof drains, gutters and downspouts shall be maintained in good repair and free from obstructions. Roof drainage shall be adequate to prevent rainwater from causing dampness or deterioration in the walls or interior portion of the building. Roof water shall not be discharged in a manner that creates a public nuisance. Missing or damaged shingles shall be replaced with shingles of similar style and color.

(h) Decorative features and accessories. All decorative features and accessories shall be maintained in good repair with proper anchorage and in a safe condition.

(i) Chimneys. All chimneys and similar appurtenances shall be maintained structurally safe, sound and in good repair. All exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weatherproofing materials.

(j) Stairs and porches. Every stair, porch, fire escape, balcony and railings and other appurtenances attached thereto shall be so constructed and maintained to be safe to use and capable of supporting the anticipated loads.

(k) Handrails. All stairways consisting of five or more risers shall have a handrail that measures 30 inches to 38 inches in height above the nosing of the stair tread for the entire length of the stair. Handrails that form part of a guardrail system shall be located 30 inches to 42 inches in height. All new and replacement handrails shall be installed as required by the Michigan Building Codes.

(l) Guardrails. Every porch, balcony, walking surface and open portion of a stairway located 30 inches or more above the adjacent floor or grade below must have a guardrail. Existing guardrails shall be at least 30 inches high with no opening that would allow the passage of a six-inch sphere. All new and replacement guardrails shall be installed as required by the Michigan Construction Codes.

(m) Common areas. Common stairs, porches, fire escapes and railings shared by three or more units shall be maintained free of hazardous conditions such as snow, ice, mud and other debris.

(n) Window frames and door frames. Every window, skylight, door and frame shall be kept in sound condition, good repair, and weathertight. All glazing materials shall be maintained free from cracks and holes.

(o) Openable windows. At least one window in each habitable room shall be capable of being easily opened. All openable windows shall be provided with window hardware capable of tightly securing the window.

(p) Insect screens. During that period of time from May 15 to October 15, at least one openable window in each habitable room shall be supplied with approved tight-fitting screens of not less than sixteen-mesh per inch. Screen doors where provided, or if required to meet minimum standards of ventilation, shall also be supplied with tight-fitting screens of not less than sixteen-mesh per inch. Torn screens shall be removed.

(q) 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 occupants and the property within.

(1) Doors. Doors providing access to a dwelling unit, rooming unit or housekeeping unit that is rented, leased or let shall be equipped with a keyed or other locking mechanism 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 be capable of reasonably securing the door against unauthorized entry. Such dead-bolt locks shall be installed according to the manufacturer's specifications and maintained in good working order. For the purpose of this section, a sliding bolt shall not be considered an acceptable dead-bolt lock.

(2) Windows. Openable windows located in whole or in part within six feet (1,828 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.

(3) 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.

(r) Basement hatchways. Every basement hatchway shall be so constructed and maintained as to prevent the entrance of rodents, rain and surface drainage water into the structure.

(s) Basement windows. Every basement window that is openable shall be supplied with shields, storm windows or other material affording protection against the entry of rodents.

(t) Exterior structure of vacant premises. All exterior portions of a vacant premises must be securely fastened or boarded so as not to allow the entry of unauthorized persons or animals into the structure.

(u) Additional display of property address for short-term rentals. The assigned property address of the short-term rental shall be prominently displayed in the backyard, pool area and any other outdoor recreation areas so that it can be easily identified in the event of an emergency. Size and type of numbers shall meet the minimum requirements of Section 32-23.

(v) Garage doors. Garage doors must be installed and maintained in working order on all garages that were or are originally built and designed to have a garage door. A garage door is required to provide protection against the elements and to not allow the entry of unauthorized persons or animals into the structure.

Sec. 14-4.10. Interior structure. [Ord. No. 1341, 7-17-2002; amended 8-1-2012 by Ord. No. 1589; 4-18-2018 by Ord. No. 1733]

(a) Generally. The interior of a structure shall be maintained in good repair, workmanlike manner, structurally sound and in a sanitary condition, so as not to pose a threat to the health, safety or welfare of the occupants and to protect the occupants from the environment.

(b) Structural members. The supporting structural members of every building shall be maintained structurally sound, not showing any evidence of deterioration that would render them incapable of carrying the imposed loads. For the purposes of this section, a "structural member" means any part of a building that provides the principal strength, stability, integrity, shape and safety to the building including, but not limited to, plates, studs, joists, rafters, stringers, stairs, subflooring, flooring, sheathing, lathing, roofing, siding, window frames, door frames, porches, railings, eaves, chimneys, flashing, masonry and all other components essential to the strength, stability, integrity, shape and safety of the building.

(c) Interior surfaces. Floors, walls (including windows and doors), ceilings and other interior surfaces shall be maintained in good, clean and sanitary condition. Excessively peeling paint, cracked or loose plaster, decayed wood and other defective surface conditions shall be repaired.

(d) Bathrooms, etc. Every bathing room, bathroom, toilet room and washroom surface shall be constructed and maintained to prevent the retention of moisture and to avoid the penetration of water to lower levels of the structure, and so as to permit such floor to be easily kept in a clean, sanitary condition. Every toilet shall be enclosed in a bathroom, toilet room or washroom as those terms are defined in Section 14-4.6.

(e) Dampness. In every building, basements and crawl spaces shall be maintained reasonably free from dampness to prevent conditions conducive to decay or deterioration of the structure.

(f) Sanitation. The interior of every structure and common area shall be maintained in a clean and sanitary condition free from any accumulation of rubbish, refuse or garbage.

(g) Pest control. The interior of all structures shall be kept free of circumstances that may harbor an infestation of insects or rodents. Infestations, when found, shall be promptly treated for the elimination thereof by a treatment program approved by the enforcing officer. Regular treatments shall continue until the infestation is eliminated. If the treatment program proves ineffective within a reasonable period of time, the enforcing officer may require the use of a more effective treatment program. After the infestation is eliminated, proper precautions shall be taken to prevent reinfestation.

(h) Handrails. All stairways consisting of five or more risers shall have a handrail that measures 30 inches to 38 inches in height above the nosing of the stair tread. Handrails that form part of a guardrail system shall be located 30 inches to 42 inches in height. All new and replacement handrails shall be installed as required by the Michigan Building Codes.

(i) Guardrails. Every porch, balcony, walking surface and open portion of a stairway located 30 inches or more above the surface below must have a guardrail. Existing

guardrails shall be at least 30 inches high with no opening that would allow the passage of a six-inch sphere. All new and replacement guardrails shall be installed as required by the Michigan Construction Codes.

(j) Display of property address for short-term rentals. The assigned property address of the short-term rental shall be prominently displayed in the kitchen or other location in the main portion of the house, so that it can be easily identified in the event of an emergency. Size and type of numbers shall meet the minimum requirements of Section 32-23.

(k) Fire extinguishers for short-term rentals. All short-term rental properties shall provide a fire extinguisher that is visible, accessible, properly maintained and not expired. The fire extinguisher shall be an "all-purpose" extinguisher, with a minimum rating of 2A 10B.

DIVISION 4
Light, Ventilation and Space Requirements

Sec. 14-4.11. Generally. [Ord. No. 1341, 7-17-2002]

(a) Scope. All properties covered by this article shall meet minimum standards for the light, ventilation and space for the occupancy of a structure.

(b) Evidence. Evidence of a violation of minimum standards for the light, ventilation and space requirements of structures shall be a violation of one or more of the sections of this division.

Sec. 14-4.12. Light. [Ord. No. 1341, 7-17-2002]

(a) Habitable rooms. Every habitable room shall have at least one window of approved size facing directly to the outdoors or to a court. The minimum total window area, measured between stops, for every habitable room shall be 8% of the floor area of such room, except when artificial light may be provided in accordance with the provisions of the Construction Code. Whenever walls or other portions of a structure face a window of any room and such obstructions are located less than three feet from the window and extend to a level above that of the ceiling of the room, such a 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. For the purposes of determining minimum lighting requirements, skylight areas shall be considered equivalent to window areas.

Sec. 14-4.13. Ventilation. [Ord. No. 1341, 7-17-2002]

(a) Habitable rooms. Every habitable room shall have at least one window, which can be easily opened, or such other device as may be permitted under the Construction Code, as will adequately ventilate the room. The total openable window area in every room shall be equal to at least 4% of the floor area.

(b) Bathrooms. Every bathroom and water closet compartment shall comply with the ventilation requirements for habitable spaces as required by this article; except, that a window shall not be required in bathrooms or water closet compartments equipped with an approved mechanical ventilation system. Air exhausted by a mechanical ventilation system from a bathroom or water closet compartment must be exhausted to the exterior and may not be recirculated to any space, including the space from which it is withdrawn.

(c) Cooking appliances. Cooking shall not be permitted in any sleeping room or dormitory unit, and a cooking appliance shall not be permitted to be present in a sleeping room or dormitory unit.

(d) Mechanical ventilation. Where mechanical ventilation is provided in lieu of the natural ventilation, such mechanical ventilation system shall be maintained in operation during the occupancy of any structure or portion thereof. When part of the air provided by a mechanical ventilation system is recirculated, the portion or volume of air recirculated shall not be recirculated to a different residential space or occupancy of dissimilar use from which it is withdrawn.

(e) Clothes dryer exhaust. Clothes dryer venting systems shall be independent of all other systems and shall be vented in accordance with the manufacturer's recommendations. All clothes dryer vent ducts must be constructed of a metallic duct material.

Sec. 14-4.14. Dwelling units. [Ord. No. 1341, 7-17-2002; amended 10-1-2014 by Ord. No. 1641]

(a) Separation of units. Dwelling units shall be separate and apart from each other and other adjoining spaces. Sleeping rooms shall not be used as the only means of access to other sleeping rooms or habitable spaces.

(b) Common access. A habitable space, bathroom or water closet compartment, which is accessory to a dwelling unit, shall not open directly into or be used in conjunction with a room used for public purposes.

(c) Below grade rooms. Rooms partially or completely below grade shall not be used as sleeping space, unless the following requirements are met:

(1) Floors and walls are watertight, so as to prevent entry of moisture;

(2) Light and ventilation requirements are met in accordance with Sections 14-4.12 and 14-4.13 of this Code;

(3) A window or exterior door has a minimum net clear opening of 5.7 square feet, the sill is no more than 44 inches above the floor and does not require tools or keys to open;

(4) The window or exterior door is above grade or an approved window well is provided.

(d) Occupancy.

(1) A dwelling unit shall not be occupied by more than one family.

(2) For any dwelling unit that was legally occupied by five or six unrelated adults as a single housekeeping group as of September 1, 2014, the dwelling unit may continue to be occupied by five or six unrelated adults as a single housekeeping group, but only if the owner demonstrates in writing to the Department of Community and Neighborhood Services on or before December 31, 2014, that the unit was so occupied.

(3) Subsection (d)(2) shall not apply to a dwelling unit if the annual basic housing permit for that dwelling unit is revoked or expires at any time after September 1, 2014, and is not renewed for at least six consecutive months. If an annual basic housing permit is thereafter reinstated, renewed or a new annual basic housing permit is thereafter issued, occupancy shall be limited as provided in Subsection (d)(1).

Sec. 14-4.15. Space requirements generally. [Ord. No. 1341, 7-17-2002; amended by Ord. No. 1544, 4-14-2010; 5-3-2017 by Ord. No. 1691]

(a) Prohibited use for sleeping purposes. It shall be prohibited to use for sleeping purposes any kitchen, nonhabitable space or public space.

(b) Minimum area for sleeping purposes. Every room occupied for sleeping purposes by one occupant shall contain at least 70 square feet of floor area, and every room occupied for sleeping purposes by more than one person shall contain at least 50 square feet of floor area for each occupant.

(c) Overcrowding. The maximum number of persons occupying a dwelling or a dwelling unit shall be calculated using the following table:

	Minimum Occupancy Area (in square feet)		
Space	**1 to 2 Occupants**	**3 to 5 Occupants**	**6 or More Occupants**
Living room	None required	120	150
Dining room	None required	80	100
Kitchen	50	50	60
Bedrooms	50 per occupant, with minimum of 70 for one occupant		

(d) Combined spaces. Combined living room/dining room/kitchen spaces will be construed as meeting the requirements of the above table if the total area is equal to that required for separate rooms and if the space is so located that it may practically function as a combination of the two or three rooms.

(e) Minimum ceiling heights. Habitable spaces created in existing basements shall be permitted to have ceiling heights of not less than six feet eight inches (2,030 cm). Obstructions may project to within six feet four inches (1,930 cm) of the basement floor. Existing finished ceiling heights in nonhabitable spaces in basements shall not be reduced. Other habitable (spaces) rooms, hallways, corridors shall have a ceiling height of not less than seven feet (2,134 cm) measured to the lowest projection from the

ceiling, except that in attics or top half stories the ceiling height shall be not less than seven feet over not less than 1/3 of the minimum area required by this Code when used for sleeping, studying, or similar activity. In calculating the floor area of attics or top half stories, only those portions of the floor area of the room having a clear ceiling height of five feet or more may be included.

(f) Minimum room widths. Every habitable space shall have a clear room width of not less than seven feet; provided that kitchens shall require a clear passageway of not less than three feet between counters, appliances and/or walls.

DIVISION 5
Plumbing Requirements

Sec. 14-4.16. Fixtures and facilities. [Ord. No. 1341, 7-17-2002]

(a) Scope. This section covers the basic plumbing facilities and fixtures requirements for properties covered by this division.

(b) Evidence of inadequate plumbing. Evidence of inadequate plumbing facilities or fixtures shall be a violation of one or more of the subsections of this section.

(c) Requirement for dwelling units. Every dwelling unit shall include its own plumbing facilities which are in proper operating condition, can be used in privacy and are adequate for personal cleanliness and the disposal of human waste, and which shall be supplied and maintained in a sanitary, safe working condition.

(d) Water closet and lavatory. Every dwelling unit shall contain within its walls a room separate from habitable spaces, which affords privacy and a water closet supplied with cold running water. A lavatory shall be placed in the same room as the water closet or located in another room in close proximity to the door leading directly into the room in which such water closet is located. The lavatory shall be supplied with hot and cold running water.

(e) Bathtub and shower. Every dwelling unit shall contain a room which affords privacy and that is equipped with a bathtub or shower supplied with hot and cold running water.

(f) Kitchen sink. Every dwelling unit shall contain a kitchen sink apart from the lavatory required under this article, and such sink shall be supplied with hot and cold running water.

(g) Requirement for rooming houses. In every rooming house, at least one closet, lavatory basin and bathtub or shower properly connected to an approved water sewer system and in good working condition shall be supplied for each four rooms within a rooming house, wherever such facilities are shared. Every lavatory basin and bathtub or shower shall be supplied with hot and cold water at all times, in every rooming house.

(h) Privacy. Toilet rooms and bathrooms shall be designed and arranged to provide privacy.

(i) Accessibility in rooming houses, etc. Toilet rooms and bathrooms serving rooming houses or dormitory units, unless located with such respective units or directly

connected thereto, shall be provided on the same story with such units and be accessible only from a common hallway or passageway.

(j) Maintenance and construction of fixtures. All plumbing fixtures shall be maintained in a safe and usable condition. All plumbing fixtures shall be of approved nonabsorbent material.

(k) Connecting generally. Water supply lines, plumbing fixtures, vents and drains shall be properly installed, connected and maintained in working order and shall be kept free from obstruction, leaks and defects and capable of performing the function for which they are designed. All installations shall be in accordance with the provisions of the Michigan building code or plumbing code.

(l) Sanitary maintenance. All plumbing facilities shall be maintained in a clean and sanitary condition by the occupant, so as not to breed insects and rodents or produce dangerous or offensive gases or odors.

(m) Access for cleaning. Plumbing fixtures shall be installed to permit easy access for cleaning both the fixture and the area about it.

(n) Connections to water system. Every sink, lavatory, bathtub or shower, drinking fountain, water closet or other facility shall be properly connected to either a public water system or to an approved private water system. All sinks, lavatories, bathtubs and showers shall be supplied with hot and cold running water.

(o) Protection of water supply from contamination. The water supply shall be maintained free from contamination and all water inlets for plumbing fixtures shall be located above the overflow rim of the fixture. Protection against back-siphonage must be provided for the water system.

(p) Adequate water supply. The water supply system shall be installed and maintained to provide at all times a supply of water to plumbing fixtures, devices and appurtenances in sufficient volume and at pressures adequate to enable them to function satisfactorily.

(q) Water heating facilities. Where hot water is provided, water-heating facilities shall be installed in an approved manner, properly maintained and properly connected with hot water lines to the fixtures required to be supplied with the hot water. Water heating facilities shall be capable of heating water to such a temperature as to permit an adequate amount of water and be drawn at every required kitchen sink, lavatory basin, bathtub, shower and laundry facility or other similar unit, at a temperature of not less than 100° F.

(r) Connections to sewage system. Every sink, lavatory, bathtub or shower, drinking fountain, water closet or other facility shall be properly connected to either a public sewer system or to an approved private sewage disposal system.

(s) Maintenance of plumbing stacks and waste and sewer lines. Every plumbing stack and waste and sewer line shall be so installed and maintained as to function properly and shall be kept free from obstructions, leaks and defects to prevent structural deterioration or health hazards. All installations shall be made in accordance with the provisions of the Michigan Construction Codes.

DIVISION 6

Mechanical Requirements

Sec. 14-4.17. Generally. [Ord. No. 1341, 7-17-2002]

(a) Scope. This section covers the basic mechanical facilities and fixtures requirements for properties covered by this division.

(b) Evidence of inadequate mechanical facilities. Evidence of inadequate mechanical facilities shall be a violation of one or more of the subsections of this section.

(c) Heating system. Every structure used as a dwelling shall be provided with a heating system capable of providing sufficient heat to all habitable rooms, bathing rooms, bathrooms, toilet rooms or washrooms and, in fact, operating during the hours that the area is occupied and required to be heated. "Sufficient heat" shall be defined as a room temperature of no less than 65°, as measured at a point three feet above the floor and three feet from existing walls, from September 15 to May 15. In the event exterior temperatures fall below 0° F. and the heating system is operating at full capacity, "sufficient heat" shall be defined as a room temperature of not less than 60° F.

(d) Cooking and heating equipment. All cooking and heating equipment, components and accessories in every heating, cooking and water heating device shall be maintained free from leaks and obstructions and kept functioning properly, so as to be free from fire, health and accident hazards. All installations shall be made in accordance with the provisions of the building code or other laws or ordinances applicable thereto.

(e) Installation and maintenance of mechanical equipment. All mechanical equipment shall be properly installed and safely maintained in good working condition, and be capable of performing the function for which it was designed and intended.

(f) Inspections. Mechanical heating systems and heating appliances (including space heaters) shall be inspected and serviced by a licensed heating contractor under the following conditions:

(1) On or before the expiration date of a three-year rental certificate of compliance;

(2) After receiving a written notice stating that an inspection and service is required;

(3) In the third year following the issuance of a six-year rental certificate of compliance; or

(4) In the sixth year following the issuance of a six-year rental certificate of compliance in a newly constructed dwelling unit.

(g) Chimney, flue or vent. All fuel-burning equipment shall be connected to an approved chimney, flue or vent.

(h) Clearances to combustible materials. All required clearances to combustible materials shall be maintained.

(i) Safety controls. All safety controls for fuel-burning equipment shall be maintained in effective operation.

(j) Combustion air. A supply of air for complete combustion of the fuel and for ventilation of the space shall be provided the fuel-burning equipment.

(k) Unauthorized devices. Devices purporting to reduce gas consumption by attachment to a gas appliance, to the gas supply line thereto or to the vent outlet or vent piping there from shall not be used, unless approved by a nationally recognized testing laboratory for such use and unless the installation is specifically approved by the enforcing officer. Unvented, gas fired, space heating devices are not permitted as an alternative heat source.

(l) Climate control. When facilities for interior climate control (heating, cooling and/or humidity) are integral functions of structures used as dwelling units or other occupancies, such facilities shall be maintained and operated in a continuous manner in accordance with the designed capacity.

(m) Elevators—maintenance. Elevators shall be maintained to safely sustain the loads to which they are subject, to operate properly and to be free of physical and fire hazards.

(n) Operation. In buildings equipped with elevators, at least one elevator shall be maintained in operation at all times when the building is occupied, unless temporarily out of service for testing and servicing.

(o) Fireplaces, etc. Fireplaces, and other construction and devices intended for use similar to a fireplace shall be stable and structurally safe and connected to approved chimneys

(p) Fireplaces—inspections. All fireplaces shall be inspected and serviced by a qualified mechanical contractor (for gas fueled or for solid fueled fireplaces under the following conditions:

(1) On or before the expiration date of a three-year rental certificate of compliance, after receiving a written notice stating that an inspection and service is required; or

(2) In the third year following the issuance of a six-year rental certificate of compliance; or

(3) In the sixth year following the issuance of a six-year rental certificate of compliance in a newly constructed dwelling unit.

(4) Exception. Fireplaces shall not be required to be inspected and serviced if the owner of a premise determines that the fireplace shall not be used. In this case he or she shall submit a written letter, upon request, stating such to the enforcing officer. Written notice shall also be given to all current and new tenants. Alternately, the fireplace may be physically disabled, or affixed with permanent signage indicating it is not to be used.

DIVISION 7

Fire Safety Requirements

Sec. 14-4.18. Generally. [Ord. No. 1341, 7-17-2002]

(a) Scope. All properties covered by this article shall meet the minimum standards for fire safety, facilities and equipment as contained in this division.

(b) Evidence of violations. Evidence of a violation of the minimum standards for fire safety facilities and equipment requirements of a structure shall be a violation of one or more of the sections of this division.

Sec. 14-4.19. Means of egress. [Ord. No. 1341, 7-17-2002]

(a) Generally. A safe, continuous and unobstructed means of egress shall be provided from the interior of a structure to the exterior at a street, or to a yard, court or passageway leading to a public open space at grade.

(b) Direct exit. Every dwelling unit or hotel/motel room shall have access directly to the outside or to an exit access corridor that leads directly to the outside.

(c) Locked doors prohibited. All doors in the required means of egress shall be readily openable from the inner side without the use of keys. Exits from dwelling units, hotel units, lodging houses and dormitory units shall not lead through other such units, or through toilet rooms or bathrooms.

(d) Exit facilities. All interior stairs and railings and other exit facilities of every structure shall be maintained in sound condition and good repair, so as to be safe to use and capable of supporting the anticipated loads.

(e) Fire escapes. All required and all existing fire escapes shall be maintained in working condition and structurally sound.

(f) Exit signs. All exit signs shall be maintained illuminated and visible.

(g) Dual egress. Every residential building (except for one- and two-family dwellings) exceeding two stories in height above grade, not counting basements, shall be provided with not less than two approved independent exits from each floor above the second floor, fully accessible from each occupancy on the floor.

(h) Emergency escape from basement rooms. Every sleeping room located in a basement shall have at least one openable window or exterior door approved for emergency egress or rescue, or shall have access to two approved independent exits.

Sec. 14-4.20. Accumulations and storage. [Ord. No. 1341, 7-17-2002]

(a) Accumulations in stairways, doors, etc. Waste, refuse or other materials shall not be allowed to accumulate in stairways, passageways, doors, windows, fire escapes or other means of egress.

(b) Explosive or flammable matter. Highly flammable or explosive matter, such as paints, volatile oils and cleaning fluids, or combustible refuse, such as wastepaper, boxes and rags, shall not be accumulated or stored on residential premises, except in reasonable quantities consistent with normal usage.

(c) Prohibited location of residential units. A dwelling unit or rooming unit shall not be located within a structure containing an establishment handling, dispensing or storing flammable liquids with a flash point of 110° F. (43° C.) or lower, except as provided for in the Construction Code.

Sec. 14-4.21. Fire resistance ratings. [Ord. No. 1341, 7-17-2002]

Floors, walls, ceilings, doors, door frames, and other elements and components required to develop a fire resistance rating shall be maintained, so that the respective fire resistance rating of the enclosure, separation or construction is preserved.

Sec. 14-4.22. Fire protection systems and equipment. [Ord. No. 1341, 7-17-2002; amended 5-2-2017 by Ord. No. 1691]

(a) Generally. All fire protection systems and equipment shall be maintained in proper operating condition at all times.

(b) Fire alarms. Fire alarms and detecting systems shall be maintained and be suitable for their respective purposes.

(c) Fire suppression systems. Fire suppression systems shall be maintained in good condition, free from mechanical injury. Sprinkler heads shall be maintained clean, free of corrosion and paint and not bent or damaged. Sprinkler systems may be subject to testing as required by the manufacturer or NFPA 13.

(d) Standpipe systems. Hose stations shall be identified and accessible. The hose shall be in proper position, ready for operation, dry and free of deterioration. Systems may be subject to testing as required by the manufacturer or NFPA 14.

(e) Fire extinguishers. All required portable fire extinguishers shall be visible and accessible, and maintained in an efficient and safe operating condition. Extinguishers may be subject to testing as required by the manufacturer or NFPA.

(f) Smoke detectors. Smoke detectors are required and shall be installed as required by the Michigan Residential Code for one- and two-family dwellings and townhouses; or the Michigan Building Code for all other structures.

Sec. 14-4.23. Fire doors. [Ord. No. 1341, 7-17-2002]

All required fire resistance rated doors or smoke barriers shall be maintained in good working order, including all hardware necessary for the proper operation thereof. The use of door stops, wedges and other unapproved hold-open devices is prohibited.

DIVISION 8

Electrical Requirements

Sec. 14-4.24. Generally. [Ord. No. 1341, 7-17-2002; amended 8-1-2012 by Ord. No. 1589]

(a) Scope. This section covers the basic electrical facilities and fixtures requirements for properties covered by this division.

(b) Evidence of inadequate wiring. Evidence of inadequate electrical wiring of a dwelling covered by this article shall be a violation of one or more of the subsections of this section.

(c) Entrances and exits. Entrances and exits shall be provided with illumination by exterior lighting fixtures. Lighting fixtures shall be controlled by interior wall switches, located for convenient and readily accessible use.

(d) Living rooms. Living rooms in dwelling units shall be provided with convenient duplex electrical receptacle outlets around the room, with at least one duplex electrical outlet on each wall and a second duplex electrical outlet on each wall exceeding 14 feet in length.

(e) Kitchens. Kitchens in dwelling units shall be provided with either a wall- or ceiling-mounted light fixture, controlled by a wall switch, located for convenient and readily accessible use nearest to the entrance to the room. Kitchens shall be provided with at least two duplex electrical outlets, one of which shall be adequate for operation of a refrigerator, and kitchens shall also be provided with two small appliance circuits with a minimum of two grounding-type duplex electrical outlets, both of which shall be a minimum of 30 inches above the floor. Kitchens shall be provided with either gas service or an electrical circuit adequate for operation of a stove. In lieu of grounding-type duplex electrical outlets, ground fault interrupter circuits may be used. Any new circuits for appliances shall be a minimum capacity of 20 amperes.

(f) Bathrooms, washrooms, etc. Bathing rooms, bathrooms, toilet rooms and washrooms within dwelling units shall be provided with a wall- or ceiling-mounted lighting fixture, controlled by a wall switch. Bathrooms, toilet rooms that contain a sink, and washrooms shall be provided with one or more grounding-type duplex electrical outlet(s), which shall be at least 30 inches above the floor, adjacent to the sink, and shall have a ground fault circuit interrupter.

(g) Habitable rooms. Habitable rooms within dwelling units shall be provided with convenient duplex receptacle outlets around the room, with a minimum of two duplex receptacle outlets on separate walls. Any wall- or ceiling-mounted lighting fixtures shall be controlled by a wall switch located for convenient and readily accessible use, nearest the entrance to the room.

(h) Basements. Basements shall be provided with a minimum of one lighting fixture for each 300 square feet of area or major fraction thereof. Each separate room of the basement shall have a minimum of one lighting fixture. Basements shall have one or more ground fault circuit interrupter receptacles.

(i) Laundry areas. Laundry areas within or accessory to a dwelling unit shall be provided with a minimum of one lighting fixture. Laundry areas shall be provided with a

separate circuit with a grounding-type receptacle outlet suitable for use of laundry appliances. In lieu of a grounding-type receptacle outlet, a ground fault interrupter circuit may be used. If provided, a separate electrical circuit shall be adequate for the operation of an electrical dryer.

(j) Heating equipment. Heating equipment, furnaces or heating systems requiring electrical energy for operation or control shall be provided with a separate grounded circuit. A disconnect switch shall be provided on or adjacent to the unit. Every furnace room shall be provided with a minimum of one lighting fixture. Portable, electric heating appliances are not permitted as a permanent alternative heat source.

(k) Stairways – Generally. Stairways and/or each stair section shall be provided with lighting outlets controlled by wall switches located for convenient and readily accessible use. Switches shall not be located where it is necessary to use a darkened stair or stair section for their operation. All stairwells with six steps or more shall be provided with multiple switch control, one at the head and one at the foot of the stairway.

(l) Same – Common stairways and hallways. Common stairways and hallways that are shared by four or more units shall be illuminated at all times with a minimum of 10 footcandles as required by the Michigan Construction Codes.

(m) Service. A minimum of one electrical service to an existing residential structure containing three or fewer dwelling units shall be at least three-wire, one-hundred-ampere capacity. Any additional electrical services required or installed shall be a minimum of sixty-ampere capacity. Service equipment shall be dead front. Type "S" fuses shall be installed where fusible equipment is used. If the existing service does not comply with the above and it is then necessary to increase service or change service equipment, the service shall be increased to a minimum of 100 amperes.

(n) Existing wiring and electrical equipment. Existing wiring and electrical equipment shall be maintained and used as originally listed and designed to be used. All new wiring and electrical equipment used to replace existing inadequate wiring shall comply with the Michigan Electrical Code (MEC) and all provisions of this article. Illegal or unapproved extensions to the wiring system in order to provide light, heat or power shall be evidence of an inadequate wiring system and subject to the requirements for new construction.

DIVISION 9
Maintenance Responsibility

Sec. 14-4.25. Generally. [Ord. No. 1341, 7-17-2002]

(a) Scope. The provisions of this division shall identify the person responsible for the maintenance of structures, and the equipment and premises thereof.

(b) Determination of person in violation. A person may be determined to be in violation of this article if deemed to be a person responsible, under the following subsections of this section, for a property which is in violation of any of the provisions of this article.

(c) Occupant. When it can be established to the satisfaction of the enforcing officer that the occupant has caused, or permitted to occur, a circumstance which results in a property being in violation of one or more of the provisions of this article, that occupant shall be deemed the person responsible for the property being in violation of this article. The code official may use an applicable inventory checklist in making a determination as to the responsible party.

(d) Owner—generally. In all events where a circumstance exists which results in the property being in violation of one or more provisions of this article, the owner shall be deemed the person responsible for the property being in violation of this article.

(e) Additional responsibility. In any event where an occupant shall be deemed the person responsible for the property being in violation of this article, the enforcing officer shall promptly notify the owner of the property of the determination of responsibility. The owner shall cause the occupant to cure the violations of this article. In the event the occupant shall fail to cure the violations of this article, the owner may take such action as shall be permitted by state law. If, within 30 days after being notified by the enforcing officer, the owner has neither caused the occupant to cure the violations nor commenced action to evict the occupant, the owner shall be deemed the responsible person for the property being in violation of this article. The fact that an owner becomes a person responsible for the property being in violation of this article under this subsection does not release the occupant from liability as a responsible person pursuant to this article.

(f) Imminent risk. In any event where the occupant is the person responsible for the property being in violation of this article, but there is an imminent risk to the health or safety of the public or of an occupant other than the person responsible for the property being in violation of this article, the owner shall promptly cure the defect on behalf of the responsible occupant. Such action on the part of the owner does not release the occupant of responsibility under this article. The owner may demand restitution from the responsible occupant for the cost of curing the violation of this article.

(g) City not responsible for cost reimbursement to owner. Notwithstanding the foregoing provisions of this section, neither the City nor its enforcing officer and officials shall be responsible to prosecute and enforce the provisions of this article relating to monetary payments, restitution or reimbursement by a responsible occupant to an owner.

DIVISION 10
Registration and Certification of Rental Dwellings

Sec. 14-4.26. Definitions. [Ord. No. 1341, 7-17-2002; Ord. No. 1577, 1-18-2012; 4-18-2018 by Ord. No. 1733]

For the purposes of this division, the following words and phrases shall have the meanings respectively ascribed to them by this section:

HOPE NEIGHBORHOOD AREA — This term shall have the same meaning as in Section 39-2 of this Code.

RENTAL UNIT — Any dwelling, dwelling unit or mobile home which is leased, made available for rental purposes, including short-term rentals, or occupied by a person(s) other than the owner (with or without monetary compensation), except:

(a) Places of public accommodation licensed by the City under Chapter 26 of this Code.

(b) Units required to be occupied by an employee or agent of an owner as a condition of employment (i.e., parsonages).

(c) Any dwellings, dwelling units or mobile homes which the state has exclusive authority under state law to inspect and regulate.

(d) The principal residence of the owner which is temporarily occupied by a person(s) other than the owner for not more than two years, other than as a short-term rental.

(e) Dwellings in a dormitory operated by an institution of higher education.

(f) Dwelling units in which an owner of such unit resides unless the nonowner-occupant(s) of such dwelling unit pay rent or make other compensation to the owner for occupancy of the dwelling unit.

(g) Tulip Time short-term rentals.

RESPONSIBLE PERSON — The person who is responsible for correcting all major or minor violation(s), or both, pursuant to the provisions of Section 14-4.25.

Sec. 14-4.27. Registration required. [Ord. No. 1341, 7-17-2002; amended Ord. No. 1577, 1-18-2012; 8-1-2012 by Ord. No. 1589; 4-18-2018 by Ord. No. 1733]

All dwellings and short-term rentals, as defined by this article, that are leased or otherwise made available for rental purposes shall be registered by the owner with the Department of Community and Neighborhood Services. In addition to other requirements of this chapter, short-term rentals must meet all requirements listed in Section 14-4.29.2.

Sec. 14-4.27.1. Special requirements: crime-free leases for all rental properties. [Ord. No. 1577, 1-18-2012; amended 9-17-2014 by Ord. No. 1638]

All rental units within the City of Holland are required to have the following terms and conditions in writing and made a part of the rental agreement between owner and lessee/ tenant:

(a) A crime-free rental agreement addendum shall be included in all residential rental agreements as follows:

CRIME FREE RENTAL AGREEMENT ADDENDUM

Notice: Michigan law establishes right and obligations for parties to rental agreements. This agreement is required to comply with the Truth in Renting Act. If you have a question about the interpretation or legality of a provision of this agreement, you may want to seek assistance from a lawyer or other qualified person.

In consideration of the rental of a dwelling unit or execution or renewal of a lease of a dwelling unit identified in the lease, Owner and Resident agree as follows:

1) Resident, any member of the resident's household, guest or other person under the resident's control shall not engage in criminal activity, including drug-related criminal activity, on the said premises. "Drug-related criminal activity" means the illegal manufacture, sale, distribution use or possession with intent to manufacture, sell, distribute, or use of a controlled substance (other than legal possession or use of medical marihuana) or a minor in possession of alcohol.
2) Resident, any member of the resident's household, guest or other person under the resident's control shall not engage in any act intended to facilitate criminal activity, including drug-related criminal activity.
3) Resident or member of the household will not permit the dwelling unit to be used for, or to facilitate criminal activity, including drug-related criminal activity, regardless of whether the individual engaged in such activity is a member of the household, or a guest.
4) Resident, any member of the resident's household or a guest, or another person under the resident's control shall not engage in the unlawful manufacturing, selling, using, storing, keeping or giving of a controlled substance at any location within the apartment complex.
5) Resident, any member of the resident's household, guest or another person under the resident's control shall not engage in any illegal activity, including prostitution, criminal street gang activity, threatening or intimidating assault, including but not limited to the unlawful discharge of firearms, within the apartment complex or any breach of the lease agreement that otherwise jeopardizes the health, safety and welfare of the landlord, his or her agent or other tenant or involving imminent serious property damage.

VIOLATION OF THE ABOVE PROVISIONS SHALL BE A MATERIAL AND IRREPARABLE VIOLATION OF THE RENTAL AGREEMENT OR LEASE AND GOOD CAUSE FOR TERMINATION OF TENANCY. A single violation of any provision of this addendum shall be deemed a serious violation and a material and irreparable noncompliance. It is understood that a single violation shall be good cause for immediate termination of the lease.

In case of conflict between the provisions of this addendum and any other provisions of the lease, the provisions of the addendum shall govern. This Addendum is incorporated into the rental agreement or lease executed or renewed this day between Owner and Resident.

Resident Signature_____ Date_____

Property Manager Signature_____ Date_____

(b) The following statement shall be included: Maximum occupancy of the rental unit is the lesser of: i) the maximum occupancy allowed under Section 14-4.15, space requirements of the property maintenance code as calculated by square footage; or ii) a family as defined in Section 39-2.

(c) The following statement shall be included: Tenants shall refrain from all conduct that unreasonably disturbs other tenants or neighbors of the building. The Holland Public Safety Department is available 24 hours a day to serve the community. Tenants may be billed for the fee imposed on the owner by the City of Holland for an excessive number or disturbances or calls as prescribed in Section 14-4.27.2.

Sec. 14-4.27.2. Excessive public safety calls; excessive local ordinance violations; excessive state tenant law violations; fee. [Ord. No. 1577, 1-18-2012; amended 9-17-2014 by Ord. No. 1638; 5-3-2017 by Ord. No. 1691]

(a) Should an excessive number of calls be generated by disturbances or complaints at a residentially used property or residential unit, except those properties that have a public lodging license, requiring the involvement of public safety staff or other City staff, the owner of the property shall be liable for a fee for such public safety or other City staff service on a per-occurrence basis. Domestic violence and other similar calls shall be excluded from this section.

(b) The fee shall be established by resolution of the City Council. The fee shall be billed to the owner by the Department of Community and Neighborhood Services.

(c) Nothing in this section shall be deemed to prevent the owner from charging the fee to tenant(s).

(d) For residentially used properties with four or fewer residential units, an "excessive number of calls" is defined as any of the following activities as determined by the Department of Public Safety [items (1) and (5) below] and the Department of Community and Neighborhood Services [items (2), (3), (4) and (5) below]:

(1) Excess of three public safety visits to a property every 12 months which result in citations for civil infractions or criminal complaints against the owner or occupants or their guests or invitees, provided that notice of the visits was promptly given to the owner;

(2) Excess of four local ordinance violations every 12 months which result in direct City staff involvement to document the violation and seek remedy to the violation, provided that notice of the visits was promptly given to the owner;

(3) Excess of three violations to Section 19-11 every 12 months which result in direct City staff involvement to document the violation and seek remedy to the violation, provided that notice of the visits was promptly given to the owner;

(4) Excess of three violations to the Michigan statutes on landlord and tenant relationships as set forth in MCLA § 554.601 et seq., as amended from time to time, which result in direct staff involvement to document the violation and seek remedy to the violation, provided that notice of the visits was promptly given to the owner; or

(5) Excess of four violations to any of the activities listed above in Subsection (d)(1) through (3).

(e) For residentially used properties with five or more residential units, an "excessive number of calls" is defined as any of the following activities as determined by the Department of Public Safety [items (1) and (5) below] and the Department of Community and Neighborhood Services [items (2), (3), (4) and (5) below]:

(1) Excess of three public safety visits to a single residential unit every 12 months which result in citations for civil infractions or criminal complaints against the owner or occupants or their guests or invitees, provided that notice of the visits was promptly given to the owner;

(2) Excess of four local ordinance violations at a single residential unit every 12 months which result in direct City staff involvement to document the violation and seek remedy to the violation, provided that notice of the visits was promptly given to the owner;

(3) Excess of three violations to Section 19-11 every 12 months which result in direct City staff involvement to document the violation and seek remedy to the violation, provided that notice of the visits was promptly given to the owner;

(4) Excess of three violations to the Michigan statutes on landlord and tenant relationships as set forth in MCLA 554.601 et seq., as amended from time to time, which result in direct staff involvement to document the violation and seek remedy to the violation, provided that notice of the visits was promptly given to the owner; or

(5) Excess of four violations at a single residential unit to any of the activities listed above in Subsection (e)(1) through (3).

(f) Should excessive calls occur at a rental property the Department of Community and Neighborhood Services may suspend the annual basic housing permit for that property as well as all other annual basic housing permits in which the owner of the rental property is the same and shall promptly give notice of suspension to the owner. If the owner disputes the basis for the suspension, the owner shall appeal to the City Council within 10 days after notice of the suspension under the same procedures as set forth in Sections 17-18 through 17-20 of this Code, as amended from time to time. To have the annual basic housing permit(s) reinstated, the property owner must apply to the Board of Appeals not earlier than six months from the notice of suspension. The Board of Appeals may reinstate the annual rental permit upon determining that the violations have been addressed and remedied.

Sec. 14-4.28. Time periods for registration. [Ord. No. 1341, 7-17-2002]

(a) All rental dwelling units shall be registered within 30 days of occupancy by the tenant.

(b) All newly constructed or newly converted rental dwellings shall be registered within 30 days of the issuance of the certificate of occupancy by the City.

(c) A rental dwelling, which is sold, transferred or conveyed, shall be reregistered by the new owner within 30 days of the date of the deed, land contract or other instrument of conveyance.

(d) All existing nonrental dwellings, which are converted to rental dwellings without issuance of a certificate of occupancy, shall be registered within 30 days from the date on which the property is first occupied for rental purposes.

Sec. 14-4.29. Required information. [Ord. No. 1341, 7-17-2002; Ord. No. 1577, 1-18-2012; 8-1-2012 by Ord. No. 1589; 4-18-2018 by Ord. No. 1733]

The owner of a rental dwelling shall submit the following information to the Department of Community and Neighborhood Services on forms prescribed by the Department:

(a) The address of the rental dwelling;

(b) The number of rental units within the structure;

(c) The name, residence address, mailing address, business telephone, home telephone and date of birth of the owner;

(d) The name, residence address, business address and business telephone of the responsible person designated by the owner;

(e) The date of registration of the rental dwelling;

(f) The name of the person filing the registration;

(g) Any additional information relating to habitable rooms as required by the rules.

Sec. 14-4.29.1. Required information for neighbors. [Ord. No. 1577, 1-18-2012]

The owner of a rental unit shall furnish the name and twenty-four-hour telephone contact information of the owner and the owner's responsible agent, where applicable, annually to property owners and residents of properties immediately adjacent (to the side and rear) and across the street from the rental property.

Sec. 14-4.2. Required information for short-term rentals. [Added 4-18-2018 by Ord. No. 1733]

In addition to other requirements of this Code, the owner of a short-term rental shall agree to, and comply with, the following conditions, and shall provide/maintain the following documents:

(a) A short-term rental will not be approved at a property that contains an accessory dwelling unit (ADU).

(b) The contact information for the owner and/or local agent shall be clearly displayed at the property and provided to all renters.

(c) A crime-free addendum described in Section 14-4.27.1 will be included in all rental agreements.

(d) Notification will be provided to all surrounding neighbors as required by Section 14-4.29.1.

(e) Documentation shall be provided from the owner's property insurance company stating that the property and liability insurance allows for and covers short-term rental use and claims from short-term rental occupants.

(f) Written confirmation that the property owner does not have an ownership interest in more than one short-term rental unit in the City of Holland.

(g) Written confirmation that the owner of a short-term rental unit shall include the certificate number in all advertisements.

(h) For an owner-occupied short-term rental the owner shall provide three documents showing that the dwelling unit is their primary residence, such as:

(1) 100% principal residence exemption with the City Assessor's Office.

(2) Driver's license.

(3) Government-issued identification.

(4) Vehicle registration.

(5) Current voter registration card.

(6) Utility bill.

(7) Property tax bill.

(8) Mortgage statement.

(i) For owner-occupied short-term rentals, the owner shall provide written confirmation that they agree to rent one room of their dwelling unit for 365 days per calendar year, and/or the entire dwelling unit for a maximum of 60 days per calendar year.

(j) A nonowner-occupied short-term rental may be located as allowed by Chapter 39.

(k) For nonowner-occupied short-term rentals, the property owner must designate a local agent. The owner shall provide the name, residence address, business address and business telephone number of the designated local agent. This local agent shall live within 35 miles from the property and be available 24 hours a day, seven days a week to respond to and mitigate any complaints regarding the short-term rental.

Sec. 14-4.30. Fee; administrative late charge; penalty. [Ord. No. 1341, 7-17-2002]

No registration fee shall be assessed to the owner of a rental dwelling by the City if registration complies with the provisions of this division. An administrative late charge as established by a resolution adopted by City Council per dwelling unit, boardinghouse, dormitory, or rooming house, shall be paid by the owner if registration of a rental dwelling does not comply with the provisions of this division. A violation of this subsection shall be a misdemeanor subject to the penalties under Section 1-10 of the Holland City Code.

Sec. 14-4.31. Incorrect and outdated registration information. [Ord. No. 1341, 7-17-2002]

An owner who fails to provide correct or current registration information shall be in violation of the provisions of this division.

Sec. 14-4.32. Inspections. [Ord. No. 1341, 7-17-2002; Ord. No. 1367, 8-20-2003; Ord. No. 1388, 6-2-2004; Ord. No. 1503, 4-23-2008; 6-3-2015 by Ord. No. 1650; 4-18-2018 by Ord. No. 1733]

(a) The enforcing officer may inspect buildings and structures to secure the health, safety and welfare of the occupants and of the general public and to obtain and maintain compliance with the standards of this article. The enforcing officer may inspect residential rental units, and short-term rentals, once every two years without first receiving a complaint or without other cause, and, in addition, may inspect buildings and structures under any of the following circumstances:

(1) Upon receipt of a complaint from an owner or occupant that the premises are in violation of this article.

(2) Upon receipt of a report or a referral from the Police Department, other public agency or department, or any individual indicating that the premises are in violation of this article, which report or referral is based on the personal knowledge of the person making the report or referral.

(3) If an exterior survey of the premises gives the enforcing officer probable cause to believe that the premises are in violation of this article.

(4) Upon the enforcing officer's receipt of information that a rental unit is not registered with the City as required by this article.

(5) As part of the rental certification program as required by Section 14-4.34 of this article.

(6) In order to determine compliance with a notice or a housing order issued by the City.

(7) If an emergency is observed or is reasonably believed to exist.

(8) In accordance with requirements of law where a dwelling is to be demolished by the City or where ownership is to be transferred to the City.

(9) Upon the request of an owner of a rental unit for an advisory inspection. Such inspections shall be performed in accordance with the provisions of Subsection (b) of this section.

(9.5) All accessory dwelling units shall be inspected and certified in accordance with Section 14-4.34 as if they were rental units.

(10) Prior to sale or transfer of any single-family dwelling or single dwelling unit within a condominium, an inspection shall be conducted in accordance with the rules as adopted by the City Council and a certificate of compliance with all smoke detector requirements shall be obtained.

a. The property owner shall pay an inspection fee as adopted by resolution of City Council. All fees shall be paid before a certificate will be issued.

b. A certificate is valid for three years from the date of issuance. A new inspection and certificate shall not be required prior to a transfer if a certificate was issued within three years prior to the transfer of title.

c. A certificate issued under this subsection shall only be evidence of compliance with smoke detector requirements and shall not be evidence of compliance with any other code requirements.

d. For purposes of this subsection only, a sale or transfer does not include a transfer:

1. After which the transferor retains an ownership interest in the property;

2. The property is transferred to a trust for the benefit of the transferor; or

3. The transfer is from a trust or estate to beneficiaries of the trust or estate without consideration.

e. All major violations cited shall be corrected prior to transfer of title.

f. Failure to comply with this subsection shall be deemed a municipal civil infraction by both the seller and buyer.

(11) Prior to operation of a Type 1 or 2 home business (as defined in Chapter 39) approved under Chapter 39 of this Code, an inspection shall be conducted of the area of a dwelling to be used for the home business together with any areas in the dwelling to be used for ingress to and egress from the area used for the home business. Should the owner or occupant move the home business to a different location in the dwelling which has not been inspected under this subsection, the owner or occupant shall obtain a new inspection. Fees for the inspection shall be paid before the owner or occupant conducts the home business. All major violations cited shall be corrected prior to conducting the home business.

(b) During the inspection, which shall be conducted in accordance with Section 14-4 of this article, the enforcing officer shall note any violations of this article or other provisions of this Code and shall issue a housing order notice of all violations to the responsible person in accordance with Section 14-4.2(a) and (b). The housing order shall direct the responsible person to correct violations within the time set forth in the notice. A reasonable time for correcting violations shall be determined by the enforcing officer in light of the nature of the violations and all relevant circumstances, but shall not exceed 30 days. Upon request by the responsible person, the enforcing officer may extend the time for correcting minor violations, if the enforcing officer deems such action appropriate under all relevant circumstances.

(c) A responsible person, who receives a housing order notice pursuant to Section 14-4.2(a) and (b) of major or minor violations, or both, shall not fail to correct those violations within the time period set forth in the notice.

Sec. 14-4.32.1. Housing inspections — Neighborhood Enterprise Zone dwelling. [Ord. No. 1407, 3-2-2005; Ord. No. 1577, 1-18-2012]

(a) Prior to the sale of a dwelling unit in a new or rehabilitated facility for which a Neighborhood Enterprise Zone certificate is in effect, an inspection shall be made by

the City to determine compliance with the Housing Property Maintenance Code of the City of Holland and a sale shall not be finalized until there is compliance with the Housing Property Maintenance Code of the City of Holland.

(b) The City shall be permitted to inspect the dwelling unit for which a Neighborhood Enterprise Zone certificate is in effect and shall issue a certificate of compliance if the Housing Property Maintenance Code of the City of Holland has been met. The property owner shall pay an inspection fee in an amount as determined by resolution of the City Council. All fees shall be paid before a certificate will be issued.

(c) For purposes of this section, a sale or transfer does not include a transfer:

(1) After which the transferor retains an ownership interest in the property;

(2) The property is transferred to a trust for the benefit of the transferor; or

(3) The transfer is from a trust to beneficiaries of a trust or estate without consideration.

Notwithstanding the foregoing, a sale or transfer shall be deemed to occur and this section shall apply if the property owner requires a transfer or assignment of the Neighborhood Enterprise Zone certificate.

(d) Any dwelling unit which constitutes a rental unit pursuant to Section 14-4.26 of the Ordinance Code of the City of Holland shall be required to comply with all requirements of [Article II,] Division 10 of Chapter 14 of the Ordinance Code of the City of Holland.

Sec. 14-4.33. Inspections—fees; administrative late charge. [Ord. No. 1341, 7-17-2002; amended Ord. No. 1577, 1-18-2012; 8-1-2012 by Ord. No. 1589]

(a) The Department of Community and Neighborhood Services shall establish a schedule of inspection fees, which shall not exceed the cost of inspecting rental units. The Department of Community and Neighborhood Services shall amend the fee schedule from time to time to reflect changes in the cost of inspections. The initial fee schedule and all amendments thereto shall not take effect until approved by a resolution of the City Council.

(b) The inspection fee shall be paid by the owner of the property, unless the inspection is based on a complaint filed by the owner for a major violation caused by the occupant, and the enforcing officer determines that such major violation does, in fact, exist. In such event, the inspection fee shall be paid by the occupant. A violation of this subsection shall be a misdemeanor subject to the penalties under Section 1-10 of the Holland City Code.

(c) If the enforcing officer determines that a complaint was filed without a factual basis, the inspection fee shall be charged to the complainant.

(d) An administrative late charge shall be paid to the City by the person obligated to pay an inspection fee if such fee is not paid within 30 days from the billing date. The amount of the administrative late fees shall be established by the Department of Community and Neighborhood Services and shall not take effect until approved by

resolution of the City Council. A violation of this subsection shall be a misdemeanor subject to the penalties under Section 1-10 of the Holland City Code.

Sec. 14-4.34. Rental certificate of compliance—generally. [Ord. No. 1341, 7-17-2002; amended Ord. No. 1577, 1-18-2012; 8-1-2012 by Ord. No. 1589]

(a) A property owner shall not lease, rent or otherwise allow a rental unit to be occupied unless the Department of Community and Neighborhood Services has issued a rental certificate of compliance or a temporary rental certificate of compliance for such rental unit. Each rental certificate of compliance or temporary rental certificate of compliance shall contain an expiration date. A violation of this subsection shall be a misdemeanor subject to the penalties under Section 1-10 of the Holland City Code and shall be deemed a nuisance per se.

(b) A property owner shall not lease, rent or otherwise allow a rental unit to be occupied if the rental certificate of compliance or the temporary rental certificate of compliance for such unit has been denied, suspended, or has expired. A violation of this subsection shall be a misdemeanor subject to the penalties under Section 1-10 of the Holland City Code and shall be deemed a nuisance per se.

(c) A person shall not occupy a rental unit if the enforcing officer orders that it be vacated due to major violations of this article. A violation of this subsection shall be a misdemeanor subject to the penalties under Section 1-10 of the Holland City Code and shall be deemed a nuisance per se.

(d) The Department of Community and Neighborhood Services shall issue a six-year rental certificate of compliance to the owner of a rental unit that is determined to be in compliance with this article. Compliance shall mean the following:

(1) There are no violations existing at the time of the most recent inspection;

(2) The enforcing officer did not discover any violations at any time since the prior rental certificate of compliance or temporary rental certificate of compliance, if any, was issued;

(3) The property owner has paid all inspection fees assessed against the property.

(e) A newly constructed rental unit may be issued a six-year rental certificate of compliance from the date of initial certificate of occupancy.

(f) At least 30 days before the expiration of a rental certificate of compliance, the Department of Community and Neighborhood Services shall notify the property owner, in writing, of the expiration date and advise the owner of the need to arrange for a compliance inspection. The property owner shall be responsible for arranging for a compliance inspection prior to the expiration date on the rental certificate of compliance. When a rental certificate of compliance is reissued in accordance with Section 14-4.36(b), it shall have a six-year or a three-year expiration date with the same month and day as shown on the previous rental certificate of compliance, regardless of the date that the new rental certificate of compliance is actually issued.

Sec. 14-4.34.1. Rental certificate of compliance — additional requirements for short-term rentals. [Added 4-18-2018 by Ord. No. 1733]

(a) A short-term rental unit shall only be issued a three-year rental certificate of compliance.

(b) A certificate of compliance for a short-term rental shall only be issued under the following circumstances:

(1) An inspection of the property shows that it is in compliance with the provisions of this code as well as Chapters 6, 9, 11, 19, 20, 25, 27 and 39;

(2) There have not been three or more public safety visits in 12 months, as described in Section 14-4.27.2;

(3) There have not been four or more local ordinance violations in 12 months, as described in Section 14-4.27.2;

(4) If it is an owner-occupied short-term rental, the owner agrees to rent one room of their dwelling unit up to 365 days per year or the entire dwelling unit for not more than 60 days per year;

(5) The short-term rental unit is a permitted use under the zoning ordinance;

(6) The short-term rental is not at a property that also has an ADU;

(7) The property owner does not have an ownership interest in more than one short-term rental unit in the City of Holland.

(8) The property owner maintains compliance with these regulations.

(c) If the property owner wishes to maintain their property with the benefit of both long-term and short-term occupants, they shall be required to meet the additional requirements for short-term rentals, as listed above.

Sec. 14-4.35. Temporary certificate. [Ord. No. 1341, 7-17-2002; amended Ord. No. 1577, 1-18-2012; 8-1-2012 by Ord. No. 1589]

(a) When a rental certificate of compliance is required, the Department of Community and Neighborhood Services may issue a temporary rental certificate of compliance if all of the following circumstances exist:

(1) The Department of Community and Neighborhood Services is unable to complete an inspection of a rental unit to verify compliance with this article prior to the expiration date of an existing rental certificate of compliance.

(2) The enforcing officer is not aware of any current major violations.

(3) The property owner has paid all inspection fees assessed against the property owner for all prior inspections of the premises.

(b) The Department of Community and Neighborhood Services may issue a temporary rental certificate of compliance for a newly registered rental unit.

(c) The Department of Community and Neighborhood Services may issue a temporary rental certificate of compliance for a rental unit subject to a housing order notice containing major violations if the property owner is in the process of correcting such violations and can show proof of same.

(d) A temporary rental certificate of compliance shall be valid until the enforcing officer completes an inspection and issues an order granting or denying a rental certificate of compliance. Said inspection shall be conducted within 60 days of the expiration date of a rental certificate of compliance, within 60 days of the registration of a new rental unit, or within 60 days of the issuance of a temporary rental certificate of compliance.

Sec. 14-4.36. Suspension and expiration. [Ord. No. 1341, 7-17-2002; amended Ord. No. 1577, 1-18-2012; 8-1-2012 by Ord. No. 1589]

(a) The Department of Community and Neighborhood Services may suspend a six-year or a three-year rental certificate of compliance for a rental unit if the responsible person fails to comply with a housing order notice issued under Section 14-4.32, or if the responsible person fails to pay any fee in accordance with Sections 14-4.33 and 14-4.37.

(b) In such event, the enforcing officer may placard the property and order that it be vacated in accordance with the provisions of Section 14-4.1. The Department of Community and Neighborhood Services shall reinstate a suspended six-year or three-year rental certificate of compliance upon a determination that all violations are corrected and upon payment of the reinspection fees. The reinstated rental certificate of compliance shall be issued for a period of not more than three years from the date of the original certificate.

(c) A rental certificate of compliance or a temporary rental certificate of compliance shall expire on the date stated on the certificate. Sixty days after such expiration date, no person shall occupy a rental unit unless a new rental certificate of compliance has been issued. A rental unit, which has not been previously certified, shall be deemed to have an expiration date on the date the property owner is notified to obtain certification for the rental unit.

(d) If the Department of Community and Neighborhood Services suspends a six-year or a three-year rental certificate of compliance, or, if a six-year or a three-year rental certificate of compliance has expired, then the Department of Community and Neighborhood Services shall notify the occupant(s) of the suspension or expiration. The notice shall inform the occupant(s) that he or she may pay rent into a self-established escrow account until he or she vacates the unit, the rental certificate of compliance is reinstated or renewed, or a temporary rental certificate of compliance has been issued pursuant to Section 14-4.35, whichever occurs first. This subsection shall not apply if the property owner establishes that the suspension of the rental certificate of compliance is due to violations that were caused by the occupant(s) of the rental unit. Once the rental certificate of compliance is reinstated or a temporary rental certificate of compliance has been issued, the rent shall again become due and payable in accordance with the terms of the lease or other agreement between the property owner and the occupant(s) or as determined by a court of law.

(e) The Department of Community and Neighborhood Services shall immediately notify the owner and occupant(s) of any decision affecting the status of a rental certificate of compliance and advise the owner and occupant(s) of their right to appeal and the procedures therefor.

Sec. 14-4.37. Annual basic housing permit. [Ord. No. 1341, 7-17-2002; Ord. No. 1381, 3-3-2004; Ord. No. 1577, 1-18-2012; amended 8-1-2012 by Ord. No. 1589; 9-17-2014 by Ord. No. 1638; 10-1-2014 by Ord. No. 1641]

(a) No property owner shall lease, rent or otherwise allow a rental unit to be occupied unless the Department of Community and Neighborhood Services has issued an annual basic housing permit for such rental unit.

(b) The owner of a rental unit shall pay an annual permit fee for the issuance of an annual basic housing permit by the City of Holland. The annual permit fee shall be established and the rules adopted by the Department of Community and Neighborhood Services and approved by resolution of the City Council. The annual permit fee shall be paid on or before the 10th day of December of each year. The annual permit fee shall be paid to the City Treasurer. A violation of this subsection shall be a misdemeanor subject to the penalties under Section 1-10 of the Holland City Code.

(c) An annual basic housing permit may be suspended by the Department of Community and Neighborhood Services or revoked by action of the City Council for violations of this Chapter 14. The procedure shall be the same as set forth in Sections 17-18 through 17-20 of this Code, as amended from time to time.

Sec. 14-4.38. Penalties. [Ord. No. 1341, 7-17-2002]

A violation of the provisions of Divisions 1 through 10 of this Article II shall be deemed a municipal civil infraction as defined under Chapter 2 of the Holland City Code, except where a violation is designated as a misdemeanor. A violation of this Article II shall also be a nuisance per se and subject to abatement as provided in Sections 1-10 through 1-10.2 or as otherwise provided in the Holland City Code. In addition to the fine and costs imposed for a violation of Divisions 1 through 10 of this Article II, the owner shall pay the administrative late charge prescribed in Section 14-4.33.

DIVISION 11
Duty of Landlord to Provide Uninterrupted Utility Service

Sec. 14-4.40. Generally. [Ord. No. 1341, 7-17-2002; amended 2-15-2017 by Ord. No. 1685]

(a) Preamble. The City affirms that it is in the best interest of the residents of the City to regulate and enforce the delivery of utility service to tenants without interruption when rental dwelling units are serviced by a single service utility connection. This section shall be used to interpret and construe the provisions of this article with the stated purpose and intent of this preamble.

(b) Definitions. The following terms shall have the meanings set forth in this subsection for the purposes of Subsection (c) and (d) of this section:

(1) BILLED CUSTOMER/TENANT — A tenant or occupant of a dwelling unit who is the customer of record for utility service for a rental of dwelling.

(2) NONBILLED CUSTOMER/TENANT — A tenant or occupant who is not the customer of record but who occupies a dwelling unit which receives the benefit of utility service provided to a billed customer/tenant or owner.

(3) UTILITY SERVICE — Gas, electric, water, sewer, solid waste and such other services provided by a private or municipal utility, which are necessary for the habitability of a rental dwelling.

(4) OWNER — The person or entity having a legal and/or equitable interest in a rental dwelling unit.

(c) Duty of owner. The owner of a rental dwelling shall contract, lease or otherwise make available utility services to nonbilled customer/tenants to be free from interruption, termination or shutoff caused by either of the following, or combinations thereof:

(1) A billed customer/tenant's or owner's failure to pay the amounts due for utility service; or

(2) An order from a billed customer/tenant or owner to voluntarily disconnect, terminate or shut off utility service.

(d) Limitations. The provisions of this section shall not be construed to regulate or impair the owner's ability to contract with a tenant for the delivery and payment of utility service. This section shall designate the owner as the responsible person in the event the delivery of utility service is interrupted, terminated or shut off for a nonbilled customer/tenant as a result of the provisions of Subsection (c) of this section.

(e) Duty of tenant or occupant. The tenant or occupant of a rental dwelling shall not tamper with or shut off a heating system, which is required to be operating under the provisions of Section 14-4.17(b).

DIVISION 12

Pilot program for Nonowner-Occupied Short-Term Rental Units established in Sec. 39-200 in R-TRN, R-1, and R-2 zone districts.

Sec. 14-4.41. Purpose. [Added 4-18-2018 by Ord. No. 1736]

(a) The City of Holland is committed to programming that balances all citizen needs as much as possible. Therefore, the City of Holland has adopted a two-year pilot program to test nonowner-occupied short-term rental units in residential zone districts. The pilot program shall commence on May 9, 2018, and expire June 30, 2020.

(b) The City recognizes that allowing short-term rental units in the R-TRN, R-1, and R-2 zone districts will provide travelers with safe accommodation, that these units will

contribute to the local economy, and that they can provide homeowners an opportunity to hold property in difficult economic circumstances or as an investment.

(c) The City also recognizes the necessity to maintain the character of its neighborhoods, control the density of short-term rental units, to maintain affordable housing options, and to address nuisance concerns.

(d) It is for these reasons that the City of Holland shall take a limited approach to allowing nonowner-occupied short-term rental units in the R-TRN, R-1, and R-2 zone districts via this two-year pilot program.

Sec. 14-4.42. Registration required.

To register a nonowner-occupied short-term rental unit for this pilot program the property owner shall fill out a registration form and submit it to the Community and Neighborhood Services Department on or after May 9, 2018. The registration will be evaluated using the criteria established in Section 14-4.27.

Sec. 14-4.43. Required information.

The owner of a short-term rental dwelling unit shall comply with Section 14-4.29.2. In addition, the owner shall sign a statement that they understand the following information regarding this pilot program:

(a) The pilot program expires on June 30, 2020.

(b) If the pilot program is not renewed or incorporated into the ordinance, they shall not continue using the property as a short-term rental;

(c) Specific criteria must be met under the zoning ordinance;

(d) Their short-term rental certificate of compliance will be revoked for violations of Section 14-4.29.2;

(e) Compliance with this criteria is required prior to allowing a short-term rental unit to be occupied;

(f) The property owner agrees they will not rent out their property as a short-term rental if they do not meet this criteria, or if their registration is rejected, or if they are unable to obtain a short-term rental certificate of compliance.

Sec. 14-4.44. Certificate of compliance - pilot program.

(a) Inspection required. For this pilot program, a nonowner-occupied short-term rental unit shall obtain a new inspection. If the inspector determines that the property is in compliance with the provisions of Chapter 14 and this division, they shall issue a rental certificate of compliance. This certificate shall expire one year from the date of the inspection, or not later than June 30, 2020.

(b) Requirements upon sale or transfer. If a rental certificate of compliance is issued to a property under this pilot program, and the property is then sold to a new owner, the

rental certificate shall be suspended until such a time that the new owner provides the information required in Sections 14-4.42 and 14-4.43 of this division.

Sec. 14-4.45. Change of use or withdrawal from the pilot program.

If a property owner decides to change the use of a short-term rental, or withdraw their rental unit from this pilot program, they shall comply with the following requirements:

(a) The owner shall provide written notification of their intent to withdraw their property from the pilot program. By doing so, they understand that this property may not be eligible in the future, based on Sections 14-4.42 and 14-4.43.

(b) The owner shall provide written notification of how they intend to use the property in the future. Such as a rental unit with occupants that stay more than 30 consecutive days, vacating the unit, owner occupancy, etc.

(c) If the property remains a rental unit, all provisions of Chapter 14, Article II, shall be met.

(d) If a property owner wishes to have a rental unit that is used for a portion of the year as short-term rental, and a portion of the year as a standard rental, they shall be required to meet all of the criteria under this pilot program.

Sec. 14-4.46. Expiration of pilot program.

Division 12 shall expire at 11:59 p.m. on June 30, 2020. All rental certificates of compliance that are issued under this pilot program are no longer in effect after the pilot program expires. If the pilot program is not renewed or incorporated into the ordinance, the property owner may file a written notice with the Department of Community and Neighborhood Services requesting a rental certificate of compliance for occupants who will reside at the property for a minimum of 30 consecutive days.

Sec. 14-4.47. Pilot program evaluation measurements.

(a) Throughout the two-year pilot program staff shall track information regarding each property that is registered under the pilot program. Information shall include, but not be limited to, property complaints, nuisance complaints, police calls, service calls, etc.

(b) The Department of Community and Neighborhood Services staff shall provide performance reports to City Council each April and October of the two-year pilot program period.

(c) These reports shall include information described in this section as well as the opinion of staff as to the success of the pilot program.

(d) The final report shall contain a staff recommendation for the continuation or termination of the pilot program.

ARTICLE III
Fair Housing

Sec. 14-5. Declaration of policy.[4] [Ord. No. 1341, 7-17-2002]

It is hereby declared to be the policy of the City in the exercise of its police power for the protection of the public safety, health and general welfare, for the maintenance of business and good government, and for the promotion of the City's trade, commerce and manufacture, to assure equal opportunity to all persons to live in adequate housing facilities, regardless of religion, race, color, national origin, age, sex, marital status or source of income and to that end to prohibit discrimination in housing.

Sec. 14-6. Definitions. [Ord. No. 1341, 7-17-2002]

For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

COMMISSION — The Human Relations Commission of the City.

FINANCIAL INSTITUTION — Any association or corporation regularly engaged in the business of lending money, guaranteeing loans or acting as a broker for the purpose of obtaining money for loans.

HOUSING ACCOMMODATION — Includes any improved or unimproved real property, or part thereof, which is used or occupied, or is intended, arranged or designed to be used or occupied, as the home or residence of one or more individuals.

PERSON — An individual, association, corporation, joint apprenticeship, committee, joint stock company, labor union, legal representative, mutual company, partnership, receiver, trust, trustee, trustee in bankruptcy, unincorporated organization, any other legal or commercial entity, the state or any governmental entity or agency.

REAL ESTATE BROKER OR SALESMAN — A person, whether licensed or not, who for or with the expectation of receiving a consideration, lists, sells, purchases, exchanges, rents or leases real property, or who negotiates or attempts to negotiate any of these activities, or who holds himself out as engaged in these activities, or who negotiates or attempts to negotiate a loan secured or to be secured by mortgage or other encumbrance upon real property, or who is engaged in the business of listing real property in a publication, or a person employed by or acting on behalf of any of these.

REAL ESTATE TRANSACTION — Includes the sale, exchange, rental or lease of real property.

REAL PROPERTY — Buildings, structures, real estate, lands, tenements, leaseholds, interests in real estate cooperatives, condominiums and hereditaments, corporeal and incorporeal, or any interest therein.

SOURCE OF INCOME — Source of income shall mean any legal source from which a person obtains money. This section shall not prevent reasonable inquiry regarding a person's

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4. Editor's Note: See also Sec. 39-17.4, Fair housing accommodation policy.

source of income or the ability to meet the financial obligations of housing. This definition shall not be construed to prevent a good faith business determination relating to a person's ability to meet the financial burdens involved.

Sec. 14-7. Unfair housing practices—real estate transactions generally. [Ord. No. 1341, 7-17-2002]

It shall be an unfair housing practice and unlawful for an owner, real estate broker or real estate salesman, or any other person as defined in this article:

(a) To refuse to negotiate for a real estate transaction with a person because of religion, race, color, national origin, age, sex, marital status or source of income.

(b) To refuse to engage in a real estate transaction with a person because of religion, race, color, national origin, age, sex, marital status or source of income.

(c) To discriminate against a person in the terms, conditions, or privileges of a real estate transaction or in the furnishing of facilities or services in connection therewith because of religion, race, color, national origin, age, sex, marital status or source of income.

(d) To refuse to receive from, or to fail to transmit to, a person a bona fide offer to engage in a real estate transaction because of religion, race, color, national origin, age, sex, marital status or source of income.

(e) To represent to a person that real property is not available for inspection, sale, rental or lease when in fact it is so available, or to fail to bring a property listing to his or her attention, or to refuse to permit him or her to inspect real property, under reasonable conditions, because of religion, race, color, national origin, age, sex, marital status or source of income.

(f) To publish or advertise, directly or indirectly, an intent to make a limitation, specification or discrimination based on religion, race, color, national origin, age, sex, marital status or source of income.

(g) To use a form of application for a real estate transaction for the purpose of making a limitation, specification or discrimination based on religion, race, color, national origin, age, sex, marital status or source of income.

(h) To make a record or inquiry in connection with a prospective real estate transaction which indicates the religion, race, color, national origin, age, sex, marital status or source of income.

(i) To offer, solicit, accept, use or retain in listing of real property with the understanding that a person may be discriminated against in a real estate transaction or in the furnishing of facilities or services in connection therewith with respect to religion, race, color, national origin, age, sex, marital status or source of income.

Sec. 14-8. Pinching. [Ord. No. 1341, 7-17-2002]

It is an unfair housing practice and unlawful for a person to whom application is made for financial assistance in connection with a real estate transaction or for the construction,

rehabilitation, repair, maintenance or improvement of real property, or a representative of such a person:

(a) To discriminate against the applicant because of religion, race, color, national origin, age, sex, marital status or source of income.

(b) To use a form of application for financial assistance or to make or keep a record or inquiry in connection with applications for financial assistance which indicates, directly or indirectly, the religion, race, color, national origin, age, sex, marital status or source of income.

Sec. 14-9. Inducing of transactions. [Ord. No. 1341, 7-17-2002]

It is an unfair housing practice and unlawful for a person, for the purpose of inducing a real estate transaction from which he or she may benefit financially:

(a) To initiate, instigate or participate in a series of representations, advertisements or contacts within a block, neighborhood or area designed to promote real estate transactions in the block, neighborhood or area based on the implication, directly or indirectly, that changes have occurred or will or may occur in the composition with respect to religion, race, color, national origin, age, sex, marital status or source of income of the owners or occupants in the block, neighborhood or area in which the real property is located, or that the changes will or may result in the lowering of property values, or an increase in criminal or antisocial behavior or a decline in the quality of the schools in the block, neighborhood or area in which the real property is located.

(b) To solicit the sale or listing for sale of real property, by telephone, mail or personally, after the property owner has expressly requested the solicitor or the company he or she represents to cease such solicitation.

Sec. 14-10. Retaliation; discrimination; coercion; interference with Commission; preventing compliance. [Ord. No. 1341, 7-17-2002]

It is an unfair housing practice and unlawful:

(a) To retaliate or discriminate against a person because he or she has opposed an unfair housing practice, or because he or she has made a charge, filed a complaint, testified, assisted or participated in an investigation, proceeding or hearing under this article.

(b) To coerce a person to engage in an unfair housing practice.

(c) To interfere willfully with the performance of a duty or the exercise of a power by the Commission or one of its members or representatives under this article.

(d) To obstruct or prevent willfully a person from complying with the provisions of this article.

Sec. 14-11. Exemptions from article. [Ord. No. 1341, 7-17-2002]

This article shall not apply:

(a) To the rental of a housing accommodation in a building which contains housing accommodations for not more than two families living independently of each other, if the owner or lessor or a member of his or her family resides in one of the housing accommodations.

(b) To the rental of one or more rooms in a single-family dwelling by the owner or lessor if he or she or a member of his or her family resides therein.

(c) To the sale or rental by the owner or lessor of a housing accommodation in a building which contains housing accommodations for not more than two families living independently of each other which was not in any manner listed or publicly advertised for sale or rental.

(d) To the rental of a housing accommodation for not to exceed 12 months by the owner or lessor where it was occupied by him or her and maintained as his or her home for at least three months immediately preceding occupancy by the tenant and is temporarily vacated while maintaining legal residence.

Sec. 14-12. Enforcement procedure. [Ord. No. 1341, 7-17-2002]

(a) Complaints. The Commission may receive complaints from any person concerning violations or possible violations of any provision of this article. Such complaint shall be in writing, under oath, stating that an unfair housing practice has been committed, setting forth the facts upon which the complaint is based, and setting forth facts sufficient for the Commission to identify the person charged. The complaint shall further state under oath that the complaint is made in good faith and not for the purpose of harassment or entrapment. Such complaint shall be filed with the Commission within 90 days after the alleged unfair housing practice occurred.

(b) Investigation. The Commission shall cause a prompt and full investigation of each complaint; such investigation to be undertaken by such agent or committee of the Commission as the Commission shall from time to time appoint and determine.

(c) Conciliation proceedings. If the Commission determines, after investigation, that probable cause exists for the complaint, it shall attempt to eliminate the unlawful practice by means of conciliation and persuasion. The Commission shall not make public the details of any conciliation proceedings until the conditions have been satisfactorily adjusted or no further action is deemed advisable.

(d) Public hearing; statement of charges. In any case of failure to eliminate the unlawful housing practice charged in the complaint by means of conciliation or persuasion, the Commission shall hold a public hearing to determine whether or not an unlawful housing practice has been committed. The Commission shall serve upon the person charged with having engaged in the unlawful housing practice a statement of the charges made in the complaint and a notice of the time and place of the hearing. The hearing shall be held not less than 10 days after the service of the statement of charges. The respondent shall have the right to file an answer to the statement of charges, to

appear at the hearing in person, or to be represented by an attorney or by any other person, and to participate in the hearing.

(e) Decisions and action by Commission—statement of findings of fact; dismissal of unjustified complaint. If, upon the evidence presented, the Commission finds that the respondent has not engaged in any unlawful housing practice, it shall state its findings of fact and the complaint shall be considered dismissed. If, upon all the evidence presented, the Commission finds that the person has engaged or is engaging in an unlawful housing practice, it shall state its findings of fact.

(f) Action when person fails to cease unfair housing practice. In the event that the person charged with having engaged in the unlawful housing practice fails to cease such practice, the Commission shall either:

(1) Certify the case and the entire record of its proceedings to the City Attorney, who shall thereupon investigate evidence and shall take such legal course as the necessities of the case require, or

(2) Shall transfer jurisdiction of such matter to the State Civil Rights Commission as provided in Act 112 of the Public Acts of 1968.[5]

Sec. 14-13. Violations and penalties. [Ord. No. 1341, 7-17-2002]

The violation of any provision of this article shall be punishable by the penalties set forth in Section 1-10.

5. Editor's Note: See MCLA § 37.2101 et seq.

Chapter 15

(RESERVED)

[Former Ch. 15, Ice, adopted as Sections 4-6.1 through 4-6.4 of the 1955 Code, as amended, was repealed 10-7-2015 by Ord. No. 1661.]

Chapter 16

JUNK AND SECONDHAND DEALERS AND USED CAR DEALERS

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ARTICLE III
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Sec. 16-8. License required.
Sec. 16-9. Certain purchases prohibited.
Sec. 16-10. Business record.
Sec. 16-11. Cleanliness of premises.

ARTICLE I
In General

(Reserved)

ARTICLE II
Junk and Secondhand Dealers

Sec. 16-1. Definition. [Code 1955, § 7-6.1; Ord. No. 924, 4-15-1987]

A secondhand dealer or junk dealer is hereby defined as any person whose principal business is that of purchasing, selling, exchanging, storing or receiving secondhand articles of any kind or description, except used motor vehicles and except used clothing.

Sec. 16-2. State law adopted. [Code 1955, § 7-6.2; amended 1-17-2018 by Ord. No. 1712]

All statutes of the state, and specifically §§ 1 through 7 of Act No. 350 of the Public Acts of 1917, as amended, being MCLA 445.401 et seq., insofar as such provisions apply to secondhand dealers and junk dealers, are hereby expressly incorporated into and made a part of this Code, by reference, and no person shall violate any such law, rule or regulation.

Sec. 16-3. License—required. [Code 1955, § 7-6.3; Ord. No. 1069, 10-7-1992]

No person shall carry on the business of collecting junk or operate as a junk or secondhand dealer without first having paid the fee as established by a resolution adopted by City Council and having obtained from the Mayor a license in the manner provided in Chapter 17 and in the statutes of the state pertaining to junk and secondhand dealers.

Sec. 16-4. Application. [Code 1955, § 7-6.4]

Application for a license under this article shall be filed with the City Clerk on forms provided by him or her.

Sec. 16-5. Pawning and security transactions prohibited. [Code 1955, § 7-6.5]

No licensee under the provisions of this article shall receive, in the course of his or her business, any article by way of pledge or pawn, nor shall he or she loan or advance any sum of money on the security of any article or thing.

Sec. 16-6. Loitering by minors under seventeen. [Code 1955, § 7-6.6]

No minor under the age of 17 years shall loiter nor be permitted to loiter about any junkyard.

Sec. 16-7. Night use of premises restricted. [Code 1955, § 7-6.7; amended 1-17-2018 by Ord. No. 1712]

No person, except the licensee under this article or his or her agents, shall be permitted within any junkyard during the period from 9:00 p.m. until 7:00 a.m.

ARTICLE III
Used Car Dealers

Sec. 16-8. License required. [Code 1955, § 7-14.1]

No person shall engage in the business or occupation of dealing in used or secondhand automobiles, without first obtaining a license therefor from the City Clerk, in the manner provided in this article and Chapter 17. No such license shall be granted by the City Clerk until the application therefor has been referred to the Chief of Police and the Fire Chief and a report has been received from them stating that the exercise of the license applied for in the proposed location will not injure the public, health, safety or welfare and that the applicant has substantially complied with federal, state and local law during the five years immediately preceding the filing of the application.

Sec. 16-9. Certain purchases prohibited. [Code 1955, § 7-14.2]

No licensee under the provisions of this article shall purchase or receive any used or secondhand automobile, or any part of an automobile, from any person who is under the age of 17 years, without the written consent of his or her parent or guardian. No such licensee

shall purchase any used automobile or any part of an automobile which he or she has reason to believe to have been stolen.

Sec. 16-10. Business record. [Code 1955, § 7-14.3]

Each licensee under the provisions of this article shall keep a daily record of all business transactions relating to used automobiles and to parts of automobiles, which record shall include the names and the addresses of persons from whom such automobiles or parts are purchased and to whom the same are sold, the identity of the automobile or part by name and description, including, whenever applicable, the year of manufacture, serial number, engine number, body number and any other pertinent identification number, mark or description. Failure to keep such a record by any such licensee or by any of his or her agents or subordinates shall constitute a violation of this requirement and shall constitute sufficient grounds for the revocation of the license granted to him or her. The Chief of Police shall, at all times, have access to such daily record.

Sec. 16-11. Cleanliness of premises. [Code 1955, § 7-14.4]

No licensee under the provisions of this article shall permit the accumulation of any junk, rubbish or litter on licensed premises.

Chapter 17

LICENSES GENERALLY

Sec. 17-1. License required.

Sec. 17-2. Licensing authority; application generally.

Sec. 17-3. Record of applications.

Sec. 17-4. Conditions of issuance generally.

Sec. 17-5. Licenses not to be issued to persons rejected, etc.

Sec. 17-6. Investigations and recommendations; fingerprinting of applicants, etc.; referral to City Treasurer.

Sec. 17-7. License year; expiration of licenses; when certain licenses become effective.

Sec. 17-8. Requirements as to state licenses, etc.

Sec. 17-9. Possession and exhibition generally.

Sec. 17-10. Display of expired, etc., license.

Sec. 17-11. Ownership of certificate; altering or defacing certificate.

Sec. 17-12. Fees—generally.

Sec. 17-13. Prorating annual license fees.

Sec. 17-14. Renewals/licenses and permits.

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Sec. 17-16. Permitting another person to use license.

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Sec. 17-18. Suspension, refusal and revocation—generally.

Sec. 17-19. Same–Hearing required for revocation; notice.

Sec. 17-20. Appeal to Council upon refusal or suspension.

Sec. 17-21. Authority of City officers to enter and inspect licensed premises.

Sec. 17-22. "Licensee" defined.

Sec. 17-1. License required. [Code 1955, § 7-1.2; amended 8-7-2002 by Ord. No. 1345; Ord. No. 1390, 6-2-2004; 5-14-2014 by Ord. No. 1628; 1-17-2018 by Ord. No. 1713]

(a) No person shall engage in the operation, conduct or carrying on of any trade, profession, business or privilege for which any license or permit is required by any section of this Code without first obtaining such a license or permit from the City, in the manner and from the City officer required by this chapter, or by the provision of this Code requiring such license or permit. Persons not previously licensed under any provision of the Code of the City of Holland (1955) or any other ordinance of the City and who are required by the provisions of this Code to obtain a license or permit shall apply for the same within 21 days after the effective date (June 23, 2004) of this ordinance amendment.

(b) The following trades, professions, businesses or privileges are required to obtain a license or permit pursuant to the chapters of this Code as referenced below:

(1) Arcades - Chapter 3.

(2) Bowling alleys - Chapter 3.

(3) Building mover - Chapter 6.

(4) Circus or carnival - Chapter 3.

(5) Community Antenna Television System - Chapter 7.

(6) Dance hall - Chapter 3.

(7) Dogs - Chapter 4.

(8) Indoor archery and firearms shooting ranges - Chapter 39.

(9) Peddler - Chapter 24.

(10) Pool table - Chapter 3.

(11) Public lodging - Chapter 26.

(12) Refuse collector - Chapter 27.

(13) Residential care facility - Chapter 26.

(14) Rubbish collector - Chapter 27.

(15) Secondhand dealer - Chapter 16.

(16) Sexually oriented businesses - Chapter 40.

(17) Sidewalk construction - Chapter 32.

(18) Sign erector - Chapter 39.

(19) Solicitation of funds - Chapter 31.

(20) Taxicabs - Chapter 34.

(21) Theater - Chapter 3.

(22) Tulip Time entertaining - Chapter 3.

(23) Tulip Time transient merchants - Chapter 24.

(24) Sale of used automobiles - Chapter 16.

Sec. 17-2. Licensing authority; application generally. [Code 1955, § 7-1.4]

Unless otherwise provided in the provisions of this Code requiring a license, the City Clerk shall be the licensing authority of the City. Unless so provided, applications for licenses from the City shall be made to the City Clerk, upon forms provided by him or her, and licenses shall be issued by him or her, subject to the conditions set forth in this chapter. All statements of fact in the application shall be made upon oath or affirmation.

Sec. 17-3. Record of applications. [Code 1955, § 7-1.22]

The City Clerk shall keep a record of all applications for licenses filed with him or her, indicating thereon whether the license applied for in each case has been granted or withheld, and, if withheld, the reason therefor.

Sec. 17-4. Conditions of issuance generally. [Code 1955, § 7-1.3]

No license shall be granted or delivered until the applicant therefor has complied with all the required conditions precedent to its issuance.

Sec. 17-5. Licenses not to be issued to persons rejected, etc. [Code 1955, § 7-1.15]

No applicant to whom a license has been refused or whose license has been revoked shall make further application for a license for at least six months after such last previous rejection or revocation, unless he or she can show, to the satisfaction of the City Clerk, that the reason for such rejection or revocation no longer exists.

Sec. 17-6. Investigations and recommendations; fingerprinting of applicants, etc.; referral to City Treasurer. [Code 1955, § 7-1.5; Ord. No. 865]

(a) The City Clerk may refer any application for a license to the Chief of Police, the Fire Chief, the Building Inspector or the Health Officer, or to any two or more of them, for an investigation and recommendation on matters pertaining to the public safety, health or welfare which are or may be involved in the exercise of the license applied for, and the City Clerk may require the giving of fingerprints and such other information as may be necessary to establish the identity of the applicant.

(b) The City Clerk shall refer an application for a license to the City Treasurer for review. The City Treasurer shall report to the City Clerk whether the applicant owes any personal property taxes to the City which are due and unpaid for the activity or business establishment to be licensed.

Sec. 17-7. License year; expiration of licenses; when certain licenses become effective. [Code 1955, § 7-1.6]

Unless otherwise provided in the provision of this Code requiring a license, the license year of the City shall begin on May 1 in each year and shall terminate on April 30 of the following calendar year. Each license granted under the provisions of this Code shall expire on the next succeeding April 30; provided, that any annual license issued between March 30 and April 30 of any year shall expire on April 30 of the calendar year next following the issuance thereof. In all cases where the provisions of this Code permit the issuance of licenses for a period of less than one year, any license so issued shall become effective on the date of the issuance thereof.

Sec. 17-8. Requirements as to state licenses, etc. [Code 1955, § 7-1.7]

No license required by any provision of this Code shall be issued to any person who is required to have a license or permit from the state until such person shall submit evidence that he or she has secured or has made application for such state license or permit.

Sec. 17-9. Possession and exhibition generally. [Code 1955, § 7-1.19]

Except for a reasonable time after the loss or destruction thereof, no person to whom a license has been granted shall fail to carry such license upon his or her person when engaged in the operation, conduct or carrying on the trade, profession, business or privilege for which the license was granted; except, that where such trade, profession, business or privilege is operated, conducted or carried on at a fixed place or establishment, or from or in a vehicle, such license shall be exhibited at all times in some conspicuous place in such place, establishment or vehicle. No person shall fail, except within a reasonable time after the loss or destruction thereof, to produce any license granted by the City when requested to do so by any City police officer, health officer or City inspector or by any person representing the issuing authority.

Sec. 17-10. Display of expired, etc., license. [Code 1955, § 7-1.12]

No person shall display any expired license or any license for which a duplicate has been issued.

Sec. 17-11. Ownership of certificate; altering or defacing certificate. [Code 1955, § 7-1.8]

Each license certificate and permit issued by the City shall be and shall remain the property of the City and no person shall alter or deface the same.

Sec. 17-12. Fees—generally. [Code 1955, § 7-1.11; Ord. No. 1069, 10-7-1992]

No license or permit shall be issued under this Code except upon payment of the fees as established by a resolution adopted by City Council; provided, that no license or permit fee shall be required from any person who is exempt from such fee by any provision of state or federal law. Such persons shall comply with all other provisions of this chapter and of the chapter requiring the license for which such fee is required. In the event that a license or permit is denied to any applicant, a portion of the fee paid by him or her as established by a resolution adopted by City Council, shall be refunded.

Sec. 17-13. Prorating annual license fees.

Whenever any annual license is applied for and issued between October 31 and March 30, the fee therefor shall be 1/2 of the annual fee for such license; provided, however, that no annual license fee of $5 or less shall be so prorated.

Sec. 17-14. Renewals/licenses and permits. [Code 1955, § 7-1.10; Ord. No. 866; Ord. No. 1069, 10-7-1992; Ord. No. 1494, 3-5-2008]

(a) Applications for the renewal of any license or food service permit ("permit") shall be considered to be and shall be treated in the same manner as an original application for such license or permit.

(b) If a licensee files an application to renew a license or permit issued by the City on or after May 1, or fails to pay the applicable license or permit fee on or before May 1, the City Clerk shall not renew the license or permit until the applicant pays an administrative late fee as established by a resolution adopted by City Council to the City Treasurer for each license or permit to be issued. Persons who are not conducting business within the City for an activity or business establishment to be licensed shall not be subject to the administrative late fee upon subsequent timely application for a license or permit.

(c) The City Clerk shall not renew a license or permit if the applicant owes any personal property taxes, license fees, food service permit fees, or administrative late charges to the City which are due and unpaid.

Sec. 17-15. Transferability. [Code 1955, § 7-1.13]

A license issued by the City shall not be transferable, unless specifically authorized by the provisions of this Code requiring it, and then only in accordance with such provisions.

Sec. 17-16. Permitting another person to use license. [Code 1955, § 7-1.14]

Except as otherwise provided in this Code, no person shall permit by lease or otherwise any other person to use or employ any license issued to him or her by the City.

Sec. 17-17. Duplicate licenses. [Code 1955, § 7-1.21]

Any person holding a license under any provision of this Code may obtain a duplicate copy of such license in case the original has been lost, destroyed or so worn or soiled as to be partially or wholly illegible.

No such duplicate copy shall be issued until the licensee shall return the original to the City Clerk, or file an affidavit with the City Clerk to the effect that such license has been destroyed or lost. Any duplicate license issued shall be plainly marked on its face, "Duplicate."

Sec. 17-18. Suspension, refusal and revocation—generally. [Code 1955, § 7-1.16]

Any license required by this Code may be suspended, or the renewal thereof refused, by the issuing officer for misrepresentation of any material fact in the application for such license. Any license may be suspended by the officer who is responsible for the enforcement thereof for any good cause. Such officer shall notify the issuing officer of each such suspension and of the reinstatement of such license upon the termination of such suspension. Any license

may be revoked by the Council for any good cause. No license fee shall be refunded to any licensee in case of the revocation or suspension of a license for good cause. The term "good cause," as used in this section, shall mean any act, omission or the permitting of a condition to exist, with respect to the license in question, which is:

(a) Contrary to the health, morals, safety or welfare of the public;

(b) Unlawful or fraudulent in nature;

(c) A violation of the chapter under which the license was granted;

(d) Beyond the scope of the license issued; or

(e) A fact, circumstance or condition which, had it existed or been known to the issuing authority at the time the license was granted, would have been sufficient grounds for the refusal thereof.

Sec. 17-19. Same–Hearing required for revocation; notice. [Code 1955, § 7-1.17]

No license under this Code shall be revoked except after hearing before the Council following not less than 10 days' written notice to the licensee stating the time and place of such hearing and setting forth the reasons for revocation.

Sec. 17-20. Appeal to Council upon refusal or suspension. [Code 1955, § 7-1.18; amended 7-26-2016 by Ord. No. 1673]

An applicant for any license who has been refused a license or the renewal of a license for any reason by the authorized issuing officer or whose license has been suspended, unless an appeal is provided to another agency by this Code or by state law, may appeal such refusal or suspension to the Council by setting forth all of the facts in a written petition and filing the same with the City Clerk within five days after such refusal. The Council shall grant a hearing to the applicant, upon the same notice as is required by Section 17-19. The decision of the Council on such appeal shall be final.

Sec. 17-21. Authority of City officers to enter and inspect licensed premises. [Code 1955, § 7-1.9]

Acceptance by any person of a license granted by the City under this Code shall constitute permission to any officer of the City, within the authority granted him or her by the section of this Code under which such license was granted, to enter upon and inspect the licensed premises at all reasonable times.

Sec. 17-22. "Licensee" defined. [Code 1955, § 7-1.1]

Except as otherwise specifically provided in this Code, the term "licensee" shall mean and include any person to whom a license has been issued under any provision of this chapter and the employees or agents of such person.

Chapter 18

MOTOR VEHICLES AND TRAFFIC

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Sec. 18-44.7. Penalties.

DIVISION 3

Parking Violations Bureau

Sec. 18-45. Established; supervision and control.

Sec. 18-46. Location; administration; rules and regulations for operation.

Sec. 18-47. Limitations upon disposing of violations.

Sec. 18-48. Construction and contents of notice of parking violation, etc.

Sec. 18-49. Schedule of parking offenses and fines.

Sec. 18-50. Acceptance of guilty pleas and collection, etc., of fines for parking violations.

ARTICLE VI

Snowmobiles

Sec. 18-51. Accidents.

ARTICLE I
In General

Sec. 18-1. Schedule of traffic rules and regulations. [Ord. No. 1393, 7-21-2004[1]]

The following schedules are hereby established:

Schedule I. Limited Parking Areas.
Schedule II. No Parking Areas.
Schedule III. Miscellaneous Limitations and Parking.
Schedule IV. Through Streets and Intersections.
Schedule V. Yield Right-of-Way Intersections.
Schedule VI. Truck Routes.
Schedule VII. Special Speed Zones.
Schedule VIII. Special No Passing Zones.

All regulations presently in existence which are evidenced by signs and meters, posted in appropriate places, are hereby continued. Such existing regulations shall be incorporated in the above listed schedules and placed on file in the offices of the City Clerk and Holland Police Department prior to the effective date of this Code. Such schedules may be revised and new schedule may be added by resolution of Council, and such revision shall be effective upon publication of the Council proceedings and upon the posting of the areas affected with appropriate signs or meters.

Sec. 18-2. Required obedience to chapter. [Ord. No. 1393, 7-21-2004]

It is a violation of this chapter for any person to do any act forbidden or fail to perform any act required herein.

Sec. 18-3. Parental responsibility. [Ord. No. 1393, 7-21-2004]

The parent of any child and the guardian of any ward shall not authorize or knowingly permit any such child or ward to violate any of the provisions of this chapter.

ARTICLE II
Michigan Vehicle Code

Sec. 18-4. Code and amendment and revisions adopted. [Ord. No. 1393, 7-21-2004; amended 11-28-2012 by Ord. No. 1597]

Pursuant to Public Act 260 of 1999, MCLA § 117.3, the Michigan Vehicle Code, 1949 PA 300, MCLA §§ 257.1 to 257.923, as effective on November 3, 2003, and all future amendments and revisions to the Michigan Vehicle Code when they are effective in this state

1. **Editor's Note: This ordinance repealed former Ch. 18, adopted as part of the 1955 Code, as amended.**

are incorporated and adopted by reference. Such code, as adopted, shall also be known as the "Holland Vehicle Code."

Sec. 18-4.1. Operation while intoxicated. [Added 11-28-2012 by Ord. No. 1597]

Pursuant to Public Act 7 of 2012,[2] the City of Holland adopts by reference Section 625(1)(c) of the Michigan Vehicle Code, 1949 PA 300, MCLA § 257.625(1)(c), and as subsequently amended, which shall be punishable by one or more of the following:

(a) Community service for not more than 360 hours;

(b) Imprisonment for not more than 180 days; and

(c) A fine of not less than $200 nor more than $700.

Sec. 18-5. References in Code. [Ord. No. 1393, 7-21-2004]

References in the Michigan Vehicle Code (Holland Vehicle Code), as adopted, to "within this state" shall mean "within the City of Holland", and references to "local authorities" shall mean the "City of Holland".

Sec. 18-6. Citation numbers. [Ord. No. 1393, 7-21-2004]

Citations to the Holland Vehicle Code shall refer to the Michigan Code of Law sections, and with such sections being MCLA §§ 257.1 through 257.923, or any amendments thereto, and may be cited by inserting the letter "H" before such citation section numbers.

Sec. 18-7. Prosecution limitations; penalties. [Ord. No. 1393, 7-21-2004; amended 11-28-2012 by Ord. No. 1597]

The penalties provided by the Michigan Vehicle Code are adopted by reference; provided, however, that the City of Holland may not enforce any provision of the Michigan Vehicle Code for which the maximum period of imprisonment is greater than 93 days nor for which the offense may be punished with a fine in excess of $500; except, however, that a violation of H257.625(1)(c) is punishable by one or more of the following:

(a) Community service for not more 360 hours;

(b) Imprisonment for not more than 180 days; and

(c) A fine of not less than $200 nor more than $700.

Sec. 18-8. Adoption by reference provisions. [Ord. No. 1393, 7-21-2004]

The purposes of this chapter are to ensure the public safety and to provide for the safety of pedestrian and vehicular traffic within the City of Holland. Notice is hereby given that printed copies of the Holland Vehicle Code shall be kept in the office of the City Clerk,

2. Editor's Note: See MCLA § 117.3.

available for inspection by, and distribution to, the public at all times. It is hereby acknowledged that the Holland Vehicle Code shall be kept in the office of the City Clerk in compliance with state law which requires that records of public bodies be made available to the general public.

Sec. 18-9. Conflict of ordinances. [Ord. No. 1393, 7-21-2004]

For any ordinances or parts thereof within this chapter which conflict with any provision of the Michigan Vehicle Code, the ordinance shall control.

ARTICLE III
Uniform Traffic Code

Sec. 18-10. Uniform Traffic Code and amendment and revisions adopted. [Ord. No. 1393, 7-21-2004]

Pursuant to MCLA § 257.951, the Uniform Traffic Code for Cities, Townships, and Villages, as promulgated by the director of the Michigan Department of State Police pursuant to the Administrative Procedures Act of 1969, 1969 PA 306, MCLA §§ 24.201 to 24.328 and made effective October 30, 2002, and all future amendments and revisions to the Uniform Traffic Code when they are promulgated and effective in this state are incorporated and adopted by reference. Such code as adopted shall also be known as the "Holland Uniform Traffic Code".

Sec. 18-11. References in Code. [Ord. No. 1393, 7-21-2004]

References in the Uniform Traffic Code for Cities, Townships, and Villages (Holland Uniform Traffic Code), as adopted, to "governmental unit" shall mean the "City of Holland".

Sec. 18-12. Citation numbers. [Ord. No. 1393, 7-21-2004]

Citations to the Uniform Traffic Code for Cities, Townships, and Villages (Holland Uniform Traffic Code) shall refer to the Uniform Traffic Code sections, and with such sections being Rule 1 through Rule 905, R28.1001 through R28.1905, and may be cited by inserting the letter "H" before such citation section numbers.

Sec. 18-13. Adoption by reference provisions. [Ord. No. 1393, 7-21-2004]

The purposes of this chapter are to ensure the public safety and to provide for the safety of pedestrian and vehicular traffic within the City of Holland. Notice is hereby given that printed copies of the Holland Uniform Traffic Code shall be kept in the office of the City Clerk, available for inspection by, and distribution to, the public at all times. It is hereby acknowledged that the Holland Uniform Traffic Code shall be kept in the office of the City Clerk in compliance with state law which requires that records of public bodies be made available to the general public.

Sec. 18-14. Conflict of ordinances. [Ord. No. 1393, 7-21-2004]

For any ordinances or parts thereof within this chapter which conflict with any provision of the Uniform Traffic Code, the ordinance shall control.

ARTICLE IV
Other Motor Vehicle and Traffic Ordinances

Sec. 18-15. Inhalation and consumption of chemical agents while driving, driving under the influence of a chemical agent prohibited. [Ord. No. 1393, 7-21-2004]

(a) It shall be unlawful for a person, whether licensed or not, to drive a vehicle upon a highway or other place open to the general public, including an area designated for the parking of motor vehicles, after having unlawfully engaged in activities described in Section 20-15(a), or while under the intentional influence of a "chemical agent" as defined in Section 20-15(b).

(b) A person who is convicted of a violation of this section may be punished by imprisonment for not more than 90 days or by a fine of not less than $50 nor more than $100, or both.

Sec. 18-16. Emergency regulations. [Ord. No. 1393, 7-21-2004]

The City Manager, or his or her designated representative, is hereby empowered to make and enforce temporary regulations to cover emergencies or special conditions. No such temporary regulation shall remain in effect for more than 90 days.

Sec. 18-17. Authority to install, etc. [Ord. No. 1393, 7-21-2004]

The City Manager, or his or her designated representative, shall, when and as authorized by the City Council, cause to be placed or removed, traffic-control signs, signals, lane markings and other devices and shall determine the hours and days during which any traffic-control device shall be in operation or be in effect, when as required under the traffic regulations of this City to indicate and carry out the provisions of this article and under state law, to regulate, warn or guide traffic.

Sec. 18-18. Accidents; duty to report accidents forthwith. [Ord. No. 1393, 7-21-2004]

The driver of every motor vehicle involved in an accident resulting in injury or death of any person or damage to property shall forthwith report such accident to the Police Department if the accident occurs within this City. The officer receiving such report, or his or her commanding officer, shall forthwith forward each individual report to the direct of State on forms prescribed by him or her, which shall be completed in full by the investigation officer. A copy of the accident report required under this section shall be retained by the local Police Department for at least three years.

Sec. 18-19. Limitations on turning around. [Ord. No. 1393, 7-21-2004]

The driver of any vehicle shall not turn such vehicle so as to proceed in the opposite direction upon any street unless such movement can be made in safety and without interfering with other traffic. A person who violates this section is responsible for a civil infraction.

Sec. 18-20. Parades and processions—permits required; exceptions. [Ord. No. 1393, 7-21-2004]

No parade or procession, other than a funeral procession, except the forces of the United States Army or Navy, the military forces of this state, and the forces of the Police and Fire Departments shall occupy, march or proceed along any street except in accordance with a permit issued by the City Clerk. Such permit shall be issued only upon approval of the Chief of Police and after payment of the fee, when required, and shall state the route to be followed and shall be subject to any conditions which the Chief of Police deems necessary to protect the safety of persons and property. A person who violates this section is responsible for a civil infraction.

Sec. 18-21. Unauthorized entry into. [Ord. No. 1393, 7-21-2004]

No person shall enter or be or become a part of any parade or procession without express permission of the permittee. A person who violates this section is responsible for a civil infraction.

Sec. 18-22. Boarding or alighting from moving vehicles. [Ord. No. 1393, 7-21-2004]

No person shall board or alight from any vehicle while such vehicle is in motion. A person who violates this section is responsible for a civil infraction.

Sec. 18-23. Interference with driver's view or control—position of passengers. [Ord. No. 1393, 7-21-2004]

No passenger in a vehicle shall ride in such position as to interfere with the driver's view ahead or to the sides, or to interfere with his or her control over the driving mechanism of the vehicle. A person who violates this section is responsible for a civil infraction.

Sec. 18-24. Operation of trucks on specified routes. [Ord. No. 1393, 7-21-2004; Ord. No. 1458, 7-5-2006]

(a) Truck route limitation. It is unlawful for any person, firm, corporation, or any other entity to operate or cause to be operated a truck as hereinafter defined, on any street, road, public right-of-way, or highway within the City, unless such operation is upon a route designated as a truck route in the schedule referred to in Section 18-1. The City shall procure and have posted appropriate signs along the designated truck route as required by the laws of the State of Michigan.

(b) Truck definition. A "truck," as used herein, shall mean any "truck," "truck tractor," "semitrailer" or "commercial vehicle" or combination thereof having an elected gross weight greater than 10,000 pounds. The word "truck" does not include the following:

(1) Bus, as defined by MCLA § 257.4b;

(2) School bus, as defined by MCLA § 257.57;

(3) Authorized emergency vehicles, as defined by MCLA § 257.2;

(4) Motor home, as defined by MCLA § 257.32a;

(5) Farm tractors and other agricultural equipment, as defined by MCLA § 257.16;

(6) Utility service vehicles or vehicles used for construction in the City while the work is in progress;

(7) Road construction and maintenance vehicles while being used for that purpose inside the City limits;

(8) Refuse trucks while making refuse pick ups within the residential districts of the City;

(9) All vehicles owned or leased by the City; and

(10) All vehicles used exclusively to transport personal possessions or family members for nonbusiness purposes.

(c) Additional definitions. The term "City" shall mean the City of Holland. The terms "elected gross weight," "truck," "truck tractor," "semitrailer" and "commercial vehicle" shall have the same definitions as provided in the Michigan Vehicle Code, Act 300, Public Acts of Michigan, 1949, as amended.

(d) Information disclosure. Upon the request of a police officer, it shall be the duty of any person driving or in charge or control of any truck to stop and answer any questions regarding the weight of the truck, its destination, and its point of origin; to proceed to any public or private scale available for the purpose of weighing and determining whether the weight thereof is in excess of the weight limit provided in this section; and such persons shall also present a log book, weight slips, delivery slips, and other written evidence of destination or points of origin, for the officer's examination.

(e) Exception: Commercial and home deliveries, pickups and service. A truck may use or travel upon a street, road, public right-of-way or highway even though not designated as a truck route by the City, for the purpose of delivering or picking up goods, wares, or merchandise, raw materials, or materials which have been processed although the manufacturing process has not been completed or there are other steps to be completed in the manufacturing process, or for the purpose of providing services at its destination within the City. In such event, travel along a prohibited route shall be limited to the minimum distance necessary to accomplish the delivery, pickup or service call, and said vehicle shall return to a designated truck route by the shortest route possible.

(f) Exception: Leaving or returning to place of business. Nothing herein contained shall prevent a truck from leaving or returning to its customary storage location at the owner's or operator's business or commercial location within the City which is not

located on a designated truck route, provided that the most direct route to and from a designated truck route is used.

(g) Exception: Road repairs. If any designated truck route or portion thereof, shall be under repair or otherwise temporarily out of use, motor vehicles within the restricted class shall use such other temporary truck routes as may be designated by the Chief of Police or his/her designee.

(h) Zoning Ordinance. Nothing contained herein shall authorize the parking of a truck otherwise prohibited under Chapter 39 of the Ordinance Code.

(i) Penalty. A person, firm, corporation or any other entity that violates this section is responsible for a civil infraction.

Sec. 18-24.1. Transportation of hazardous materials on South Washington Avenue. [Ord. No. 1400, 11-17-2004]

(a) No semitrailer, tractor-trailer, truck, or other motor vehicle transporting the quantities of hazardous materials specified in Subsection (b) shall be operated on South Washington Avenue between Geurink Boulevard and 64th Street.

(b) The quantities of hazardous materials which are prohibited by Subsection (a) are:

(1) Any quantity of hazardous material that is required by federal law to be placarded;

(2) Any quantity of explosives categories 1.1, 1.2, or 1.3, poison gases, dangerous when wet goods, organic peroxides, poison inhalation hazards, or radioactive materials; and

(3) Over 1,000 pounds of explosives categories 1.4, 1.5, or 1.6, flammable gases, nonflammable gases, flammable and combustible liquids, flammable solids, spontaneously combustible materials, oxidizers, poisons, corrosives, and certain other materials such as hazardous wastes.

(c) Tank vehicles which are empty, or which have a residue, or vehicles transporting empty containers, are prohibited from operating on South Washington Avenue between Geurink Boulevard and 64th Street if they previously transported a prohibited quantity of hazardous material as specified in Subsection (b), with the following exceptions:

(1) Tank vehicles or containers that have been sufficiently cleaned of residue and purged of vapor to remove any potential hazard; or

(2) Tank vehicles or containers that have been reloaded with a material not classified as a hazardous material.

(d) Tank vehicles used to transport Class 3 flammable liquids, even if empty, are prohibited from operating on South Washington Avenue between Geurink Boulevard and 64th Street.

(e) The U.S. Department of Transportation Regulations, 49 C.F.R. 117-171, 397 and any revisions, U.S. Nuclear Regulatory Commission Regulations, 10 C.F.R. 73, and any

additional federal regulations affecting the transportation of hazardous materials by motor carriers on highways are incorporated by reference into these regulations.

(f) All terms used in this section which are defined in the federal regulations referenced in Subsection (e) above shall have the same meaning as given in the federal regulations.

(g) The restriction contained in Subsection (b) shall not apply to fuel contained in the fuel system of the transporting vehicle, or in the fuel systems of vehicles and equipment being towed or carried.

(h) Alternative-fuel vehicles powered by liquefied petroleum gas (LPG), liquefied natural gas (LNG), or compressed natural gas (CNG) shall be permitted if the:

(1) Vehicle alternative-fuel system conforms to applicable industry standards and federal regulations;

(2) Fuel capacity of the vehicle does not exceed 300 pounds water capacity; and

(3) Vehicles displays all markings and symbols required by law or regulation to identify the alternative fuel system.

(i) A person who violates this section is responsible for a Class III civil infraction.

Sec. 18-25. Restrictions on trucks and commercial vehicles upon use of streets generally. [Ord. No. 1393, 7-21-2004]

When signs are erected giving notice thereof, no person shall operate, stop, stand or park any truck or commercial vehicle with a gross weight in excess of the amounts specified thereon at any time upon any of the streets or parts of streets on which such signs have been posted. A person who violates this section is responsible for a civil infraction.

Sec. 18-26. Speed of bicycles. [Ord. No. 1393, 7-21-2004]

No person shall operate a bicycle at a speed greater than is reasonable and prudent under the conditions then existing. A person who violates this section is responsible for a civil infraction.

Sec. 18-26.1. Obedience to signs prohibiting bicycle riding, skateboarding, roller skating and roller-blading. [Ord. No. 1542, 2-17-2010]

When signs are erected or posted on a sidewalk, street, or other designated areas which prohibit a person from bicycling, skateboarding, roller skating or roller-blading on the sidewalk, any improvements along the right-of-way or other designated areas, or prohibit a person from bicycling, skateboarding, roller skating or roller-blading on the street or other designated area, a person shall not disobey such signs. The signs shall be authorized in the manner provided by Section 18-17 of this Code. The City Council shall designate the sidewalks, streets, and other areas by resolution. A violation of this section shall be deemed a Class I civil infraction, and the fine for such violation shall be as set forth in Section 2-118 of the Code.

ARTICLE V
Stopping, Standing and Parking

DIVISION 1
Generally

Sec. 18-27. Prohibited in specified areas. [Ord. No. 1393, 7-21-2004; amended 11-20-2013 by Ord. No. 1619; 2-4-2015 by Ord. No. 1645; 11-7-2018 by Ord. No. 1752; 12-4-2019 by Ord. No. 1777]

(a) Except when necessary to avoid conflict with other traffic or in compliance with law or the directions of a police officer or traffic-control device, a person shall not stop, stand or park a vehicle in any of the following places:

(1) At any place where official signs prohibit stopping, standing or parking.

(2) In any place where the parked vehicle would significantly impede or obstruct United States mail delivery, street cleaning, plowing, maintenance, waste removal, or similar municipal functions.

(3) Between the sidewalk lines of any street between the hours of 2:00 a.m. and 5:00 a.m. of any day; except that this prohibition shall not apply to physicians, ambulance drivers or undertakers on emergency calls.

(b) Notwithstanding Subsection (a)(3), currently licensed and operable one- to twelve-passenger motor vehicles, motorcycles and trucks not exceeding two tons in carrying capacity may park between the sidewalk lines of any street between 2:00 a.m. and 5:00 a.m. on any day from May 15 through October 15, provided that:

(1) There shall be no parking during such hours of trailers or nonmotorized recreational vehicles (whether or not attached to a passenger vehicle or truck) between the sidewalk lines of any street;

(2) There shall be no parking during such hours between the sidewalk lines on the following streets:

a. 6th Street from River Avenue to Columbia Avenue;

b. 7th Street and 8th Street from Lincoln Avenue to Maple Avenue;

c. 9th Street from Lincoln Avenue to Pine Avenue;

d. 10th Street from Pine Avenue to Lincoln Avenue;

e. Pine Avenue and Lincoln Avenue from 7th Street to 10th Street;

f. River Avenue, Central Avenue, College Avenue and Columbia Avenue from 6th Street to 10th Street; and

g. Maple Avenue from 7th Street to 8th Street.

(3) There shall be no parking during such hours in a manner that impedes the flow of traffic or where official signs prohibit stopping, standing or parking.

(4) There shall be no parking on sidewalks or between sidewalks and curbs.

(5) Vehicles may remain parked between sidewalk lines of a public street (other than between a sidewalk and curb), in the same spot, for up to 48 hours. Any vehicle identified as exceeding this time limit shall be deemed an abandoned vehicle and may be given notice and thereafter removed as an abandoned vehicle under the Michigan Vehicle Code, MCLA § 257.252 to 257.252m, as amended from time to time.

Sec. 18-28. Off-street parking on right-of-way prohibited; exceptions. [Ord. No. 1393, 7-21-2004]

(a) Parking forbidden between curb and sidewalk; exception. Except by explicit written approval of the City Council, no person shall park a vehicle upon any portion of the public right-of-way lying between the sidewalk line and the curb bordering the traveled portion of a street.

(b) Parking between uncurbed street and sidewalk; when permitted. Where any street is lacking a curb, off-street parking is permissible on the public right-of-way provided that the parked vehicle:

(1) Is not in violation of any City ordinance; and

(2) Creates no hazard to any member of the public who may be lawfully using the public right-of-way.

(c) Parking between uncurbed street and edge of public right-of-way where there is no sidewalk, where permitted. Where any street is lacking a curb and there is no existing sidewalk on the public right-of-way, off-street parking is permissible on the public right-of-way provided that the parked vehicle:

(1) Is not in violation of any City ordinance; and

(2) Creates no hazard to any member of the public who may be lawfully using the public right-of-way.

Sec. 18-29. Off-street parking prohibited on front yards of property used for residential purposes; exception. [Ord. No. 1393, 7-21-2004]

(a) Definitions. [For the purposes of this section the following definitions shall apply:]

(1) FRONT YARD — An open, unoccupied space on the same lot with a building or used for residential purposes, between the line of the building facing a street (excluding steps and unenclosed porches) and the street line, extending for the full width of the lot. On a corner lot, each yard adjoining a street shall be considered a front yard.

(2) ESTABLISHED DRIVEWAY OR PARKING SPACE — A driveway or parking space, or both, that existed before 1973 or was installed by right or by variance after 1973 and was used as a driveway or parking space until August 18, 1999.

(b) Prohibitions. A person shall not park a vehicle on a front yard of a lot used for residential purposes, except on a finished surface of asphalt, concrete, pavers, or similar durable material approved by the City, or on an established driveway or parking space.

Sec. 18-30. Limited entry upon private property. [Ord. No. 1393, 7-21-2004]

A police officer or other enforcing officer of the City of Holland may enter upon the front or side yard of any private property used for residential purposes within the City of Holland for the limited purpose of investigating and ticketing any vehicle when the officer has reasonable cause to believe that the vehicle is parked in violation of Section 18-28 or 18-29.

DIVISION 2

Downtown Overnight Residential Parking

Sec. 18-31. Definitions. [Ord. No. 1393, 7-21-2004; amended 12-4-2019 by Ord. No. 1777]

For the purposes of this division, the following terms and words shall mean:

DOWNTOWN AREA — The area bounded by 10th Street on the south, 6th Street on the north, Columbia Avenue on the east, and Maple Avenue on the west.

LONG-TERM OVERNIGHT RESIDENTIAL PARKING — Those municipal parking lots which are designated for permit holders to park their motor vehicles for a twenty-four-hour period in designated spaces within the lots.

MUNICIPAL PARKING LOT — Those lots which are owned, leased, operated, or maintained by the City of Holland and/or the Downtown Development Authority for the municipal parking system in the downtown area. Even if it is not in the downtown area, a lot shall be deemed a "municipal parking lot" for purposes of this division if it is owned, leased, operated, or maintained by the City of Holland and/or the Downtown Development Authority and it is accessible from any of the streets which form the boundary around the downtown area.

SHORT-TERM OVERNIGHT RESIDENTIAL PARKING — Those municipal parking lots which are designated for permit holders to park their motor vehicles from the hours of 8:00 p.m. to 8:00 a.m. only, Monday through Saturday, and all day on Sunday.

Sec. 18-32. Prohibited. [Ord. No. 1393, 7-21-2004; amended 12-4-2019 by Ord. No. 1777]

No person shall stand or park a vehicle between the hours of 2:00 a.m. and 5:00 a.m. in those municipal parking lots designated by official signage in the downtown area without a permit affixed to the motor vehicle issued in accordance with the provisions of this division.

Sec. 18-33. Permit. [Ord. No. 1393, 7-21-2004; amended 8-15-2018 by Ord. No. 1743]

A person residing within the downtown area may apply for an overnight residential parking permit for an automobile registered in the name of the applicant or in the name of a relative

of the applicant. The applicant shall apply to the Downtown Development Authority, and he or she shall complete the downtown overnight residential parking permit application provided at the Downtown Development Authority's office. The Downtown Development Authority shall not issue an overnight parking permit for an automobile if the applicant may obtain a parking permit for that automobile from the building owner of applicant's residence or through a condominium association.

Sec. 18-34. Records. [Ord. No. 1393, 7-21-2004]

The Downtown Development Authority shall maintain a permit log containing all downtown overnight residential parking permit applications and all temporary applications. The Downtown Development Authority shall provide any information to the Holland Police Department for the enforcement of the overnight residential parking regulations pursuant to this division.

Sec. 18-35. Permit—hours and permissible parking locations.

Any permit issued in accordance with this division shall be valid for parking during the designated hours of any authorized long-term or short-term overnight residential parking location. A map of such long-term and short-term overnight residential parking locations shall be provided to the permit holder by the Downtown Development Authority's office upon permit issuance and renewal.

Sec. 18-36. Fee and validity. [Ord. No. 1393, 7-21-2004]

Each permit applicant shall pay a fee as established by a resolution adopted by City Council for the issuance of the downtown overnight residential parking permit issued by the Downtown Development Authority in accordance with this division. The permit shall be valid for a period of 12 months.

Sec. 18-37. Display. [Ord. No. 1393, 7-21-2004]

The permit shall be displayed and affixed in the lower left hand corner (driver's side) of the vehicle's rear window.

Sec. 18-38. Revocation. [Ord. No. 1393, 7-21-2004]

A permit may be revoked by the Downtown Development Authority for noncompliance with the provisions of this division. Revocation shall be effective upon 10 days' written notice from the Downtown Development Authority setting forth a date of revocation and the reason for revocation. Any permit fees paid prior to revocation of the permit shall be nonrefundable.

Sec. 18-39. Nonrenewable. [Ord. No. 1393, 7-21-2004]

The Downtown Development Authority is authorized to deny renewal of a permit to an applicant for noncompliance with the provisions of this division.

Sec. 18-40. Penalties. [Ord. No. 1393, 7-21-2004]

A violation of this division shall be deemed a civil infraction and the fine for such violation shall be as set forth in Section 18-49 of this chapter.

Sec. 18-41. Designated enforcing officers. [Ord. No. 1393, 7-21-2004]

The Downtown Development Authority, or its designated representative, shall be the enforcing officer relating to the provisions of this division for permit issuance. The Chief of Police, or its designated representative, shall be the enforcing officer for violations of parking, vehicle locations, length of parking, and improper or unauthorized display of a permit.

Sec. 18-42. Downtown Development Authority—designation of parking location. [Ord. No. 1393, 7-21-2004; amended 12-4-2019 by Ord. No. 1777]

Designated downtown long-term and short-term overnight residential parking locations shall be determined by the Downtown Development Authority. The Downtown Development Authority shall be permitted to change, amend, or modify designated locations, and shall file the designation of such locations with the City Manager's office and the Department of Public Safety. Upon the change of designated locations, the Downtown Development Authority shall notify the City Manager and the Department of Public Safety and all permit holders of such amendments and changes.

Sec. 18-43. Temporary downtown overnight residential parking permit. [Ord. No. 1393, 7-21-2004]

The Downtown Development Authority is hereby authorized to issue temporary downtown overnight residential parking permits. A temporary permit shall be valid for the time period designated on the face of the temporary application. An applicant shall pay a temporary downtown overnight residential parking permit fee as established by a resolution adopted by City Council. A temporary downtown overnight residential parking permit holder is subject to the other applicable sections of this division except for Section 18-36.

Sec. 18-44. Permit fees. [Ord. No. 1393, 7-21-2004]

The Downtown Development Authority shall pay to the City Treasurer all permit fees it receives.

DIVISION 2A
Downtown Parking Deck

Sec. 18-44.1. Definition. [Ord. No. 1535, 6-3-2009]

For purposes of this division, the term "parking deck" shall mean that structure for the parking of motor vehicles owned, operated, and maintained by the City of Holland and located at the northeast corner of College Avenue and Seventh Street.

Sec. 18-44.2. Prohibitions. [Ord. No. 1535, 6-3-2009]

No person shall cause any vehicle to be parked within the parking deck in violation of any of the following:

(a) In a parking space subject to a license agreement between the City of Holland and a person or entity as licensee and designated for reserved parking between the hours of 7:00 a.m. and 5:00 p.m. Monday through Friday.

(b) Between the hours of 2:00 a.m. and 5:00 a.m. on any day unless an overnight residential parking permit is issued and affixed to the motor vehicle pursuant to Section 18-31 et seq.

Sec. 18-44.3. Permit. [Ord. No. 1535, 6-3-2009]

A person or entity who has entered into a license agreement with the City of Holland for a reserved parking space shall be issued a permit and a hang tag for the designated vehicle(s). A person or entity who has been issued a permit shall be required to attach the hang tag on the vehicle(s) rear-view mirror during the hours of 7:00 a.m. through 5:00 p.m. Monday through Friday and shall park the vehicle(s) in the designated parking space subject to the license agreement. A person or entity shall not allow any vehicle(s) to park in a reserved parking space except as designated in the license agreement. The permit issued by the City of Holland shall be nontransferable.

Sec. 18-44.4. Fee and validity. [Ord. No. 1535, 6-3-2009; Ord. No. 1559, 2-2-2011]

Each person or entity entering into a license agreement and issued a permit under Section 18-44.3 shall pay a fee as established by a resolution adopted by the City Council. The permit shall be valid for a period of 12 months or such term as established by the Downtown Development Authority.

Sec. 18-44.5. Nonrenewable. [Ord. No. 1535, 6-3-2009]

The City is authorized to deny renewal of a permit to a person or entity for noncompliance with the provisions of this division.

Sec. 18-44.6. Designated enforcing officers. [Ord. No. 1535, 6-3-2009]

The Downtown Development Authority, or its designated representative, shall be the enforcing officer relating to the provisions of this division for permit issuance. The Chief of Police, or its designated representative, shall be the enforcing officer for violations of parking, vehicle locations, length of parking, and improper or unauthorized display of a permit.

Sec. 18-44.7. Penalties. [Ord. No. 1535, 6-3-2009]

A violation of this division shall be deemed a civil infraction, and the fine for such violation shall be as set forth in Section 18-49(e) of this chapter.

DIVISION 3

Parking Violations Bureau

Sec. 18-45. Established; supervision and control. [Ord. No. 1393, 7-21-2004]

Pursuant to Section 8395 of the Revised Judicature Act of the State, as amended by Act No. 154 of the Public Acts of 1968,[3] a Parking Violations Bureau for the purpose of handling alleged parking violations within the City is hereby established. The Parking Violations Bureau shall be under the supervision and control of the Chief of Police.

Sec. 18-46. Location; administration; rules and regulations for operation. [Ord. No. 1393, 7-21-2004]

The Chief of Police shall, subject to the approval of the City Council, establish a convenient location for the Parking Violations Bureau, appoint qualified City employees to administer such Bureau and adopt rules and regulations for the operation thereof.

Sec. 18-47. Limitations upon disposing of violations. [Ord. No. 1393, 7-21-2004]

No violation may be settled at the Parking Violations Bureau except at the specific request of the alleged violator. In no case shall the person who is in charge of such Bureau determine or attempt to determine the truth or falsity of any fact or matter relating to such alleged violation. No person shall be required to dispose of a parking violation at the Parking Violations Bureau, and all persons shall be entitled to have any such violation processed before a court having jurisdiction thereof if they so desire. The unwillingness of any person to dispose of any violation at the Parking Violations Bureau shall not prejudice him or her or in any way diminish the rights, privileges and protections accorded to him or her by law.

Sec. 18-48. Construction and contents of notice of parking violation, etc. [Ord. No. 1393, 7-21-2004]

The issuance of a parking summons, ticket or notice of violation by a police officer shall be deemed an allegation of a parking violation. Such parking summons, ticket or notice of violation shall indicate the nature of the parking violation, the length of time in which the person to whom the same was issued must respond before the Parking Violations Bureau and shall also indicate the address of such Bureau, the hours during which such Bureau is open, the amount of the penalty scheduled for the offense for which the ticket was issued, and advise that a warrant for the arrest of the person to whom the ticket was issued will be sought if such person fails to respond within the time limit.

Sec. 18-49. Schedule of parking offenses and fines. [Ord. No. 1393, 7-21-2004; amended Ord. No. 1536, 6-17-2009; 6-3-2015 by Ord. No. 1649]

There is hereby established the following schedule of parking offenses and fines:

(a) Overtime parking violations in off-street public lots:

3. Editor's Note: See MCLA § 600-8395.

(1) Ten dollars, if paid within seven days of issuance.

(2) Fifteen dollars, if paid from eight to 30 days of issuance.

(3) Twenty-five dollars, if paid after 30 days of issuance.

(4) Fifty dollars, if paid after 30 days and a civil infraction is issued.

(b) Overnight parking violations:

(1) Fifteen dollars, if paid within seven days of issuance.

(2) Twenty dollars, if paid from eight to 30 days of issuance.

(3) Thirty dollars, if paid after 30 days of issuance.

(4) Fifty dollars, if paid after 30 days and a civil infraction is issued.

(c) Stopping, standing or parking in a handicapped parking spot: $75.

(d) Hazardous parking violations: All parking violations prohibited by the provisions of this chapter or other ordinances of the City, other than as provided in Subsections (a), (b) and (c) of this section:

(1) Fifteen dollars, if paid within seven days of issuance.

(2) Twenty dollars, if paid from eight to 30 days of issuance.

(3) Thirty dollars, if paid after 30 days of issuance.

(4) Fifty dollars, if paid after 30 days and a civil infraction is issued.

(e) Violations of the Parking Deck Ordinance (Division 2A.):

(1) Fifteen dollars if paid within seven days of issuance;

(2) Twenty dollars if paid from eight to 30 days of issuance;

(3) Twenty-five dollars if paid after 30 days of issuance;

(4) Twenty-five dollars plus a cost of $25 for issuance of a civil infraction.

Sec. 18-50. Acceptance of guilty pleas and collection, etc., of fines for parking violations. [Ord. No. 1393, 7-21-2004]

The Parking Violations Bureau shall be authorized to accept pleas of guilty in parking violations cases and to collect and retain fines and costs therefor as set forth in Sections 18-45 to 18-49. Appearance, plea and payment to such Bureau shall constitute satisfaction of such parking violations.

ARTICLE VI
Snowmobiles

Sec. 18-51. Accidents. [Ord. No. 1393, 7-21-2004]

The operator of a snowmobile involved in an accident shall comply with the requirements of MCLA § 257.617 through MCLA § 257.622.

Chapter 19

NUISANCES

ARTICLE I

In General

Sec. 19-1. Defined.

Sec. 19-2. Prohibited generally.

Sec. 19-3. Abatement of dangerous buildings.

Sec. 19-3.1. Vacant or abandoned structures; purpose.

Sec. 19-3.2. Definitions.

Sec. 19-3.3. Registration of vacant or abandoned structures.

Sec. 19-3.4. Duty to maintain and secure.

Sec. 19-3.5. Violations, inspections, abatement.

Sec. 19-3.6. Prohibition on transfer or occupancy after registration.

Sec. 19-4. Obnoxious odors.

Sec. 19-5. Noise—generally.

Sec. 19-6. Exceptions to preceding section.

Sec. 19-7. Littering—depositing waste materials on streets, etc.; depositing snow or ice on sidewalks, etc.

Sec. 19-8. Distributing handbills, etc.

Sec. 19-9. Posting.

Sec. 19-9.1. Graffiti.

Sec. 19-10. Accessory structures and fences.

Sec. 19-11. Weeds and noxious vegetation.

Sec. 19-12. Infested, etc., trees.

Sec. 19-13. Dismantled and inoperable vehicles.

Sec. 19-13.1. Inappropriate storage of items in unenclosed areas on residentially used properties.

Sec. 19-14. Violations and penalties.

ARTICLE II

False Security Alarms

Sec. 19-15. False security alarms; purpose.

Sec. 19-16. Definitions.

Sec. 19-17. Responsibility for compliance; requirement of alarm user to respond to scene.

Sec. 19-18. False security alarms.

Sec. 19-19. Service fee.

Sec. 19-20. Conflict with other City ordinances.

Sec. 19-21. Penalties.

ARTICLE I

In General

Sec. 19-1. Defined. [Code 1955, § 3-1.1; Ord. No. 1566, § 1, 8-3-2011]

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, public sidewalk 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.

Sec. 19-2. Prohibited generally. [Code 1955, § 3-1.2]

No person shall create, maintain or permit to be maintained a public nuisance in the City.

Sec. 19-3. Abatement of dangerous buildings. [Code 1955, § 3-1.3; Ord. No. 1127, 10-19-1994; Ord. No. 1507, 7-2-2008]

(a) Administrative abatement.

(1) As used in Section 19-3, "dangerous building" means a building or structure as defined by state statute, MCLA § 125.539.

(2) If a building or structure is found to be a dangerous building, then the building or structure shall be abated in accordance with the procedures described in MCLA § 125.538 et seq.

(3) A hearing on whether the building or structure is a dangerous building shall be held before a hearing officer who shall be appointed by the Mayor to serve at his or her pleasure in accordance with the procedures described in MCLA § 125.540 and MCLA § 125.541.

(4) The City of Holland's Housing Board of Appeals is designated as the "Board of Appeals" and it shall exercise all authority, hear all of the cases and carry out all of the duties of the legislative body pursuant to MCLA § 125.541c.

(5) The Board of Appeals may adopt procedural rules to govern the hearing before the hearing officer and the hearing before the Board of Appeals. Said rules shall be effective once they have been approved by resolution of City Council.

(b) Emergency abatement.

(1) Vacating structures. When, in the opinion of the enforcing officer, as defined in Section 14-4(a) of the Ordinance Code of the City of Holland, there is actual and immediate danger of failure of collapse of a building or structure or any part thereof which would endanger life, or when any structure or part of a structure has fallen and life is being endangered by the occupation of the building or structure, the enforcing officer is hereby authorized and empowered to order and require the inmates and occupants to vacate the same forthwith. The enforcing officer shall cause to be posted at each entrance to such building or structure a notice reading as follows: "This Structure is Unsafe and its Use or Occupancy has been Prohibited by the Enforcing Officer." It shall be unlawful for any person to enter such building or structure except for the purpose of making the required repairs or of demolishing the same.

(2) Temporary safeguards. When, in the opinion of the enforcing officer, there is actual and immediate danger of collapse or failure of a building or structure or any part thereof which would endanger life, or a condition exists that is immediately dangerous to life, the enforcing officer shall cause the necessary

work to be done to render such building or structure or part thereof temporarily safe, whether or not notice has been given as may be required by other procedures described herein, or by other sections of the Ordinance Code. Such conditions requiring this action shall be dangerous to the extent that any delay in taking corrective action will pose, in the opinion of the enforcing officer, an immediate threat to life and safety.

(3) Emergency repairs. For the purposes of this subsection, the enforcing officer shall employ the necessary labor and materials to perform the required work as expeditiously as possible.

(c) Costs of abatement. All costs incurred by the City in the demolition of a building or structure, in making a building or structure safe, in maintaining the exterior of a building or structure or grounds adjoining the building or structure, or in the performance of the emergency repairs, to bring the property into conformance with this section, shall be reimbursed to the City by the owner or party in interest in whose name the property appears upon the last local tax assessment record. The owner or party in interest in whose name the property appears shall be notified by the Assessor, as soon as practical, in writing, by first class mail at the address shown on the records, of the action taken on the subject property and the costs for same. If the owner or party in interest fails to pay the costs within 30 days after mailing by the Assessor of the notice, then the costs shall be placed on the tax role and shall become a lien against the property in accordance with the procedures set forth in the City Charter.

(d) The enforcing officer of this section shall be the Director of Community and Neighborhood Services or his or her designee.

Sec. 19-3.1. Vacant or abandoned structures; purpose. [Ord. No. 1566, § 2, 8-3-2011]

(a) Purpose and intent. The purpose of this article is to protect the health, safety and welfare of the citizens of the City of Holland by preventing blight, protecting property values and neighborhood integrity, remedying these nuisances and ensuring safe and sanitary maintenance of vacant or abandoned structures. Vacant or abandoned structures are hereby declared a nuisance.

(b) [Legislative findings.] The City of Holland makes the following legislative findings:

(1) Vacant or abandoned structures create a serious and substantial problem and are public nuisances.

(2) Vacant or abandoned structures that are not maintained constitute a hazard to public health, safety, and welfare.

(3) Vacant or abandoned structures often become dilapidated because they are not maintained and repaired by their owners.

(4) Vacant or abandoned structures attract children, harbor vermin, shelter vagrants and criminals, and are more likely to be damaged by vandals or arsonists than occupied properties.

(5) Unkempt grounds surrounding vacant or abandoned structures invite dumping of garbage, trash, and other debris.

(6) Many vacant or abandoned structures are on narrow lots and close to neighboring structures, increasing the risk of fire and spread of insect and rodent infestation.

(7) Vacant or abandoned structures contribute to blight; cause a decrease in property values; and discourage neighbors from making improvements to structures.

(8) Vacant or abandoned structures that remain boarded up for an extended period of time also exert a blighting influence and contribute to a decline of the neighborhood by decreasing property values, discouraging persons from moving into the neighborhood, and encouraging persons to move out of the neighborhood.

(9) Vacant or abandoned structures that may otherwise provide safe, affordable, homeownership, often continue to deteriorate to the point that demolition of the structure is required, decreasing available housing in the community and contributing to the neighborhood decline.

(10) The blighting influence of vacant or abandoned structures adversely affects the tax revenues of local government.

(11) The City of Holland spends resources and staff time to maintain, secure, demolish or otherwise respond to problems associated with vacant or abandoned structures.

(12) Owners of vacant or abandoned structures should be held accountable for the physical condition of their structures. At a minimum, they should prevent such structures from exerting a negative influence on the well-being of the neighborhoods where they are located.

Sec. 19-3.2. Definitions. [Ord. No. 1566, § 2, 8-3-2011]

(a) VACANT OR ABANDONED STRUCTURE — A parcel of real property with a structure or building, that has been without occupancy for 30 days or more, and is either:

1) Subject to foreclosure as defined by this section; or

2) Is not maintained in compliance with the Ordinance Code of the City of Holland, including, without limitation, the Building Code, Mechanical Code and Plumbing Code in Chapter 6; Housing - Property Maintenance Code in Chapter 14; nuisances in Chapter 19; and refuse and garbage in Chapter 27; and meets any one or more of the following criteria:

a. Has one or more broken or boarded windows;

b. Has taxes in arrears for a period of time exceeding 365 days;

c. Has utilities disconnected or not in use;

d. Has a structure for which a building permit has expired that is only partially completed and is not fit for human occupancy;

e. Open to casual entry or trespass;

f. Suffers deterioration from neglect;

g. Has a structure that is damaged by fire, flood, weather, or vandalism to an extent which prohibits human occupancy;

h. Is under a condemnation notice or legal order to vacate;

i. Has a structure that is structurally unsound; or

j. Is a potential hazard or danger to persons.

(b) ENFORCING OFFICER — The Director of the Department of Community and Neighborhood Services or his or her designee.

(c) FORECLOSURE — The process by which a mortgage, security interest or lien is enforced against a parcel of real property through sale or offering for sale the real property to satisfy a debt or claim. For the purposes of this section a notice of foreclosure and/or a notice of trustee's sale, a pending tax sale, and/or properties that have been the subject of a foreclosure sale where the title was retained by the beneficiary of a mortgage involved in the foreclosure, and/or that have transferred under a deed in lieu of foreclosure/sale shall all constitute the foreclosure properties.

(d) OWNER — Any person or entity with legal or equitable ownership or possessory interest in any real property. The owner shall include, but not be limited to, a bank, credit union, trustee or financial institution which is in possession (in whole or in part) of the real property, foreclosing a lien or mortgage interest in the affected property, but may or may not have legal or equitable title.

(e) SECURING — Such measures as may be directed by the Department of Community and Neighborhood Services that render the property inaccessible to unauthorized persons, including, but not limited to, the repairing offences and walls, chaining or padlocking of gates, the repair of doors, windows, and other openings.

Sec. 19-3.3. Registration of vacant or abandoned structures. [Ord. No. 1566, § 2, 8-3-2011]

(a) An owner of a vacant or abandoned structure in the City shall register the structure with the Department of Community and Neighborhood Services within 15 days after: 1) the structure becomes subject to foreclosure; or 2) the date of notice by the Department of Community and Neighborhood Services that the structure has been declared a vacant or abandoned structure, whichever is earlier.

(b) Once a vacant or abandoned structure has been properly registered by the owner, such registration shall be valid and effective until January 10 of the following year and shall be renewed annually thereafter until the property has become occupied and a certificate of compliance has been issued.

(c) Registration information:

(1) For each vacant or abandoned structure required to be registered, the owner(s) shall register with the Department of Community and Neighborhood Services on a form provided by the Department and shall provide the following information:

a. Address of the vacant or abandoned structure;

b. Date on which the structure became vacant or abandoned;

c. Legal name of the owner(s) and date(s) of birth;

d. Address(es), telephone number and e-mail address of owner(s);

e. Name, address, telephone number and e-mail address of any agent or representative authorized by the owner to handle the affairs of the structure, if employed. If such an agent or representative is utilized, he/she must reside within a three-hour driving radius of the City of Holland.

f. Telephone number(s) of owner for contact purposes.

g. Such additional information as required by the Department of Community and Neighborhood Services.

h. A statement allowing authorized City staff to enter the premises for inspection purposes.

(2) Requirement to keep information current. If at any time the information contained in the registration is no longer valid, the property owner has 10 days to file a new registration containing current information. There shall be no fee to update the current owner's information.

(3) Fee; administrative late charge. An administrative late charge as established by a resolution adopted by the City Council shall be paid by the owner if registration of a vacant or abandoned structure does not comply with the provisions of this division.

(4) Penalty. In addition to any fee or other sanction that may be imposed, any person who violates a provision in Sections 19-3.1 to 19-3.6 shall be guilty of a Class III municipal civil infraction and subject to the civil fines set forth in the schedule of civil fines in Section 2-118 of the Holland City Code and shall be subject to any other relief that may be imposed by a court for such conduct, which shall also be considered a nuisance per se. The City shall further be entitled to recover all costs and reasonable attorney fees incurred as a consequence of having to prosecute any enforcement action necessitated by a person's violation of such sections.

(d) Fees. All fees applicable to this chapter shall be set from time to time by resolution of the City Council and shall include at a minimum:

(1) Annual registration fee. Shall be the fee charged to the owner at the time of registration of the vacant or abandoned structure;

(2) Failure to register fee. Shall be the fee charged to the owner for failing to register the vacant or abandoned structure as required by this section;

(3) Monthly monitoring fee. Shall be the fee charged to the owner for periodic inspections by the enforcing officer to assure continuing compliance with the duties set forth in Section 19-3.4. A nonrefundable payment of the first three months of monitoring fees shall be prepaid by the owner at the time of registration;

(4) Certificate of compliance fee. Shall be the fee charged to the owner for a certificate of compliance as described in Section 19-3.6;

(5) Inspection fee. Shall be the fee charged to the owner for any inspection requested by the owner or necessitated by the owner's failure to comply with the maintenance and security duties as set forth in Section 19-3.4;

(6) [Administrative charges.] Administrative charges shall also be charged to the owner for search warrant, title search, boarding and securing, debris/rubbish removal, and prosecution preparation.

Sec. 19-3.4. Duty to maintain and secure. [Ord. No. 1566, § 2, 8-3-2011]

(a) An owner of a vacant or abandoned structure shall comply with all of the following maintenance and security requirements:

(1) The property on which the structure is located shall be in compliance with Section 19-11 for grass and vegetation maintenance.

(2) The property shall be kept free of dry brush, dead vegetation, trash, junk, debris, building materials, any accumulation of newspapers, circulars, flyers, notices, except those required by federal, state, or local law, discarded items, including, but not limited to, furniture, clothing, large and small appliances, printed material, unapproved signage, containers, equipment, construction materials, or other inappropriate materials.

(3) The property and structure shall be maintained free of graffiti.

(4) Pools, spas, and other water features shall be covered by a safety cover approved by the state construction code and shall comply with the minimum security fencing and barrier requirements of applicable building and housing and property maintenance codes.

(5) The property and structure shall be maintained in a secure manner so as not to be accessible to unauthorized persons. Secure manner includes, but is not limited to, the closure and locking of windows, doors, gates and any other openings of such size that may allow a child or other person to access the interior of the property and/or structures.

(6) The structure shall be properly winterized so as to prevent bursting of pipes unless the buildings are served by a heating system that requires the use of water for heating or fire suppression.

(7) The structure shall be maintained in accordance with applicable sections of Chapter 14 of this Ordinance Code, including, but not limited to, Sections 14-4.7, 14-4.8 and 14-4.9.

Sec. 19-3.5. Violations, inspections, abatement. [Ord. No. 1566, § 2, 8-3-2011]

(a) Inspection—Frequency. Periodic inspections, not less than once every 30 days, shall be conducted by the enforcing officer to assure continuing compliance with the duties set forth in Section 19-3.4. A fee determined by resolution of the City Council shall be established to offset the cost of monitoring the property and vacant or abandoned structures. A nonrefundable payment of the first three months of monitoring fees shall be prepaid by the owner at the time of registration.

(b) Notice—Service. Notice of any cited violations or demand for abatement shall be served upon the registered owner of record by first class mail and by posting a copy thereof in a conspicuous place or on or about the structure affected by the notice.

(c) Contents. Whenever the enforcing officer determines that there has been or is a violation of this Section 19-3.4, or that there are reasonable grounds to believe that there has been or is a violation of any duties otherwise required by Sections 19-3.1 to 19-3.6, he or she shall give notice of such violation or alleged violation to the person responsible therefor. Such notice shall:

(1) Be in writing;

(2) Include a description of the real estate sufficient for identification;

(3) Specify the violation which exists and the remedial action required; and

(4) Indicate the time in which correction is required.

(d) Duty of owner, etc., to secure and maintain. It shall be the duty of the owner of any premises within the City to inspect, secure and maintain the premises as often as may be necessary to comply with the provisions of Section 19-3.4 of this Code.

(e) Abatement by City; charging cost. If the owner fails to secure or maintain the premises as required under Section 19-3.4 of this Code, such failure shall constitute a hazardous and nuisance condition. Within 72 hours after the notice to abate has been provided, an enforcing officer may abate the nuisance without giving further notice. The enforcing officer may abate the offending condition by arranging for City employees or private contractors to secure and board the structure, remove rubbish and debris from the premises, or make repairs to maintain the building(s) and premises to conform to Section 19-3.4. The cost of abating the nuisance condition(s) may be charged against the premises and the owner in accordance with the provisions of Chapter 15 of the Holland City Charter. The cost shall be the standard hourly rate for labor and machinery used by the City of Holland or the reasonable cost incurred by a private contractor, whichever is appropriate, plus an administrative fee as provided by the master fee resolution adopted by the City Council from time to time.

(f) Emergency abatement by City; charging cost. An enforcing officer may abate a public nuisance under Section 19-3.4 of this Code without giving notice, if the public health or safety requires immediate abatement. The cost of abating the nuisance may be charged against the premises and the owner in accordance with the provisions of Chapter 15 of the Holland City Charter. The cost shall be the standard hourly rate for labor and machinery used by the City of Holland or the reasonable cost incurred by a private

contractor, whichever is appropriate, plus an administrative fee as provided by the master fee resolution adopted by the City Council from time to time.

(g) Appeal of assessment. An owner assessed for abatement costs may appeal the assessment to the Director of Community and Neighborhood Services or his or her designee. On appeal, the Director shall determine:

(1) Whether the property and/or structure was in violation of Section 19-3.4 of this Code;

(2) Whether the City provided notice as required by Subsection (b) of this section before the City abated the condition (except for emergency abatements); and

(3) Whether the costs assessed against the owner were properly calculated.

An appeal shall be filed within 21 days after the City serves notice on the property owner that the costs will be assessed against the owner and the premises.

Sec. 19-3.6. Prohibition on transfer or occupancy after registration. [Ord. No. 1566, § 2, 8-3-2011]

(a) A registered vacant or abandoned structure shall not be occupied by any person until both of the following conditions have been satisfied:

(1) All outstanding fees required by Section 19-3.3 have been paid; and

(2) A certificate of compliance has been issued by the Department of Community and Neighborhood Services after inspection.

a. A certificate of compliance shall only be issued after a complete inspection of the property and structure have been conducted and all violations are corrected in accordance with the applicable requirements of the state construction code and Chapter 14 of City Housing Code.

b. A certificate of compliance shall further be valid for no more than 30 days after its issuance and shall thereafter terminate.

c. Should any structure for which a certificate of occupancy has been issued remain vacant and unoccupied for a period of more than 30 days after the issuance of such certificate, no occupancy of such structure may thereafter occur until the owner complies with the provisions of Subsection (a)(2)a of this provision and any additional fees have been paid.

(b) No real property on which a registered vacant or abandoned structure is located shall be sold or transferred without first being inspected by the Department of Community and Neighborhood Services.

Sec. 19-4. Obnoxious odors. [Code 1955, § 3-1.4]

No person shall cause or allow obnoxious odors to be emitted into the open air so as to annoy the public.

Sec. 19-5. Noise—generally. [Code 1955, § 3-1.5; amended 6-2-1993 by Ord. No. 1089; 8-7-1996 by Ord. No. 1178; 2-1-2012 by Ord. No. 1580, § 1; 4-17-2013 by Ord. No. 1604; 6-26-2013 by Ord. No. 1611; 5-14-2014 by Ord. No. 1628; 2-20-2019 by Ord. No. 1764]

Except as provided in Section 19-6, 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 unreasonable loud or harsh sound; and the sounding of any signal device for any unreasonable or unnecessary period of time.

(2) Radio and musical instruments, etc. The playing, using, operating of, or permitting to be played, used or operated, a radio, boom box, receiving set, stereo, musical instrument, or other electronic sound device inside or outside of a building or structure, or in a parked or moving motor vehicle (including motorcycles and mopeds), so as to produce sound that is plainly audible at a distance of 25 feet from the source of such sound device.

(3) Shouting, whistling, etc. Yelling, shouting, hooting, whistling, singing or the making of any other loud noises on the public streets between the hours of 11:00 p.m. and 7:00 a.m., or the making of any such noise at any time so as to annoy or disturb the quiet, comfort or repose of persons in any office, 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.

(5) Animal and bird noises. The keeping of any animal or bird that 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 therefor), 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 Code.

(11) Firearms at shooting ranges. The sound from the discharge or firing of a firearm within a firing range approved under Sections 39-17.1 and 39-17.2 shall not exceed 50 decibels, as measured at the property line.

Sec. 19-6. Exceptions to preceding section. [Code 1955, § 3-1.6; Ord. No. 1245, 3-24-1999; Ord. No. 1409, 3-2-2005; Ord. No. 1442, 2-1-2006; amended 4-17-2013 by Ord. No. 1604; 6-26-2013 by Ord. No. 1611; 2-20-2019 by Ord. No. 1764]

None of the terms or prohibitions of the preceding section shall apply or be enforced against:

(a) Emergency vehicles. Any police or fire vehicle or any ambulance, while engaged upon necessary emergency business.

(b) Highway and utility maintenance and construction. Necessary excavations in or repairs of bridges, streets or highways, or any public utility installation 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.

(c) Public addresses. The reasonable use of stationary amplifiers or loud speakers for public addresses which are noncommercial in character.

(d) Sacred music. The use of sound amplifiers or other such devices by churches, or other organizations approved by the Council, to broadcast Christmas or Easter music for a period not to exceed 15 days prior to Christmas Day and seven days prior to Easter Day, 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.

(e) Charitable community, educational, recreational and religious 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 charitable, community, educational, recreational and religious purposes, provided that no such sound amplifiers shall be used unless a permit therefor is issued by the Chief of Police upon the following conditions:

(1) The issuance of such a permit shall be approved by the Chief of Police and the City Manager.

(2) Such permits will be issued only for matters of charitable, community, educational, recreational and religious purposes.

(3) Such permits will be issued for not more than two hours in any 1/2 day, and use of such equipment will not be permitted after 9:00 p.m. unless approved by the Chief of Police.

(4) Such sound trucks shall not operate within 300 feet of any hospital or within 300 feet of any school during school hours.

(5) The sound from such equipment shall be so regulated that it may be heard by people on the streets but will not create a nuisance.

(f) Street performers. Reasonable use of musical instruments or other devices that are permitted under Article VI of Chapter 32. A street performer's use of an amplification device under a permit that is issued pursuant to and complies with Article VI of Chapter 32.

Sec. 19-7. Littering—depositing waste materials on streets, etc.; depositing snow or ice on sidewalks, etc. [Code 1955, § 3-1.7; Ord. No. 1580, § 2, 2-1-2012]

(a) Depositing, etc., on street, etc. No person shall place, deposit, throw, scatter or leave in any street, highway, lane, alley, public place or square, or on the private property of another, any grass clippings, bush trimmings, leaves, refuse, waste or other such materials; provided, however, that such materials may be deposited on City streets only in such area as it is directly adjacent to the property from which the materials are removed and only as directed by the City during designated City-wide clean-up periods.

(b) Transporting or dumping so as to litter stream, etc. No person shall transport or dump any refuse or other waste materials in such a manner as to cause the littering of any stream or public place, or the private property of another, or to cause the obstruction of any ditch, drain, culvert or gutter.

(c) Depositing snow or ice on sidewalk, etc. No person, in removing snow or ice from private property, shall deposit the same on any sidewalk or on the roadway portion of any street, nor in any area between the sidewalk and the curbline except such area as is adjacent to the property from which the snow is removed and then only in such quantity as will not create a traffic hazard.

Sec. 19-8. Distributing handbills, etc. [Code 1955, § 3-1.8]

(a) Public places or vehicles. No person shall distribute, throw, drop or scatter in any public place or in or upon any vehicle located in any public place any poster, handbill, card, sample or other matter used for the purpose of advertising in such a manner as to result in the littering of any public place.

(b) Private property. No person shall distribute handbills, cards, samples or other advertising matter on any private property so as to cause the littering of any public place or of any private property not his or her own.

Sec. 19-9. Posting. [Code 1955, § 2-1.9; Ord. No. 601]

No person shall attach, place, paint, write, stamp or paste any sign, advertisement or any other matter upon any lamp post, electric light, railway, telegraph or telephone pole, shade-tree or fire hydrant, or box covering same, or any bridge pavement, sidewalk or crosswalk, public building or any property or thing belonging to the City or any article or thing within any park; provided, that this subsection shall not be construed to prevent any public officer from so doing for any purpose authorized by this Code or by the laws of the state.

Sec. 19-9.1. Graffiti. [Added 4-2-2014 by Ord. No. 1625]

Graffiti results in visual pollution and is hereby declared a public nuisance. Graffiti must be abated as quickly as possible to avoid detrimental impacts on the City, its residents, visitors and to prevent the further spread of graffiti.

(1) Purpose and intent. The purpose of this section is to protect the health, safety and welfare of the citizens of Holland by preventing blight, protecting property values, and remedying the nuisance.

(2) Definitions. As used in this section, the following terms shall have the meanings indicated:

GRAFFITI — Any mark or marks on any surface, including, but not limited to, writing, inscribing, drawing, tagging, sketching, spray-painting, painting, etching, scratching, carving, engraving, scraping, or attaching, placed on any building, accessory building, fence or other structure, or surface by a person other than the owner or someone authorized by the owner.

(3) Removal of graffiti. No person who owns or otherwise leases or manages property shall permit or allow any graffiti to be or remain on any surface or structure on the property for a period longer than five days. The enforcing officer for this section shall be the Director of Community and Neighborhood Services or his or her authorized representative.

(4) Notice to abate — generally.

a. Notice to abate. The enforcing officer, upon failure of the owner and other parties responsible for the property to comply with Subsection (3), shall notify the owner and other parties responsible for the property to abate such nuisance within five days.

b. Notice to abate as required by this section shall be given by the enforcing officer or authorized representative, in writing, clearly notifying the owner and other parties responsible for the property of the violation.

c. The notice to abate referred to in Subsection (4)a may be served by personal service, posting on the property, or first-class mail. If first-class mail, it shall be deemed given the next day after mailing and shall be addressed as follows:

1. In the case of a property owner, to the last known address of such owner taken from the tax records of the City.

2. In the case of a premises lessee, to the mailing address of such premises.

3. In the case of a property manager, to the mailing address of such manager on file with the City.

(5) Removal standard. All removal and cover-up of graffiti must be accomplished in such a manner that the final condition of the exterior structure is in good condition and repair, and meets the City of Holland's workmanlike standards in Chapter 14.

(6) A person who fails to remove graffiti within five days after the notice required under Subsection (4) is responsible for a Class I municipal civil infraction and subject to the

civil fines set forth in the schedule of civil fines in Section 2-118 of this Code and any other relief that may be imposed by the court. Each act of violation and each day upon which such violation occurs shall constitute a separate violation.

(7) Abatement by City; charging cost. If the owner or occupant fails to abate a nuisance under Subsections (3) and (5) of this section within five days after the notice to abate has been provided, then an enforcing officer may abate the nuisance without giving further notice. The enforcing officer may abate the nuisance by arranging for City employees or private contractors to paint over the nuisance, or by other appropriate means. The cost of abating the nuisance may be charged against the owner in accordance with the provisions of Section 15.17, Abatement or removal of hazards and nuisances, of the Holland City Charter. The cost shall be the standard hourly rate for labor and machine use for the City of Holland or the reasonable cost incurred by a private contractor, whichever is appropriate, plus an administrative fee as provided by the master fee resolution adopted by the City Council from time to time.

(8) Emergency abatement by City; charging cost. An enforcing officer may abate a public nuisance under Subsection (5) of this section, without giving notice, if the public health, safety, or welfare requires immediate abatement, including but not limited to threats against a specific person or group of people, incendiary language, profanity or sexually explicit language. The cost of abating the nuisance may be charged against the owner in accordance with the provisions of Section 15.17, Abatement or removal of hazards and nuisances, of the Holland City Charter. The cost shall be the standard hourly rate for labor and machine use for the City of Holland or the reasonable cost incurred by a private contractor, whichever is appropriate, plus an administrative fee as provided by the master fee resolution adopted by the City Council from time to time.

(9) Right of entry of enforcing officer, etc. An enforcing officer or his or her authorized representative is hereby empowered to enter upon any premises in the City for the purpose of determining compliance with Subsection (5) of this section.

(10) Appeal of assessment.

a. A property owner assessed for abatement costs may appeal the assessment to the Director of Community and Neighborhood Services. On appeal, the Director shall determine whether:

1. The property was in violation of Subsection (5) of this section;

2. Whether the City provided notice as required by Subsection (4) before the City abated the condition (except for emergency abatements); and

3. Whether the costs assessed against the property owner were properly calculated.

b. An appeal shall be filed within 21 days after the City mails notice to the property owner that the costs will be assessed against the property owner.

Sec. 19-10. Accessory structures and fences.[1] [Ord. No. 1580, § 3, 2-1-2012; amended 8-1-2012 by Ord. No. 1590]

(a) Nuisance structure or fence. Any accessory structure or fence where the condition of the accessory structure or fence poses a threat to the health, safety or general welfare of the public is declared to be a nuisance.

(b) Notice to abate. The enforcing officer, upon determining that an accessory structure or fence is a nuisance as defined under Subsection (a), shall notify the owner, occupant or agent to abate such nuisance within seven days in accordance with the provisions of Section 1-6. The owner, occupant or agent shall abate the nuisance as directed by the notice.

(c) Abatement by City; charging cost. If the owner or occupant fails to abate a nuisance as defined under Subsection (a) within seven days after notice has been given, the enforcing officer may abate the nuisance without giving further notice. The enforcing officer may abate the nuisance by arranging for City employees or private contractors to remove the accessory structure or fence by appropriate means. The cost of abating the nuisance may be charged against the premises and the owner in accordance with the provisions of Chapter 15 of the Holland City Charter. The cost shall be the standard hourly rate for labor and machine use for the City of Holland or the reasonable cost incurred with a private contractor, whichever is appropriate, plus an administrative fee as provided by the Master Fee Resolution adopted by the City Council from time to time.

(d) Emergency abatement by City; charging cost. The enforcing officer may abate any such a nuisance as defined under Subsection (a) without giving notice, if the public health or safety requires immediate attention. The cost of abating the nuisance may be charged against the premises and the owner thereof, in accordance with the provision of Chapter 15 of the Holland City Charter. The cost shall be the standard hourly rate for labor and machine use for the City of Holland or the reasonable cost incurred with a private contractor, whichever is appropriate, plus an administrative fee as provided by the Master Fee Resolution adopted by the City Council from time to time.

(e) Right of entry of enforcing officer, etc. The enforcing officer or his or her authorized representative is hereby empowered to enter upon any premises in the City for the purpose of determining compliance with Subsection (b).

(f) Appeal of assessment.

(1) A property owner assessed for abatement costs may appeal the assessment to the Director of the City's Department of Community and Neighborhood Services. On appeal, the Director shall determine whether:

a. The property was in violation of Subsection (a);

b. The property owner and occupant were mailed notices of the violation at least seven days before the City abated the condition [except for emergency abatements under Subsection (d)]; and

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1. Editor's Note: Former Sec. 19-10, regarding radio and television interference, was repealed 7-2-2008 by Ord. No. 1507.

c. The costs assessed against the property owner were properly calculated.

(2) An appeal shall be filed within 21 days after the City mails notice to the property owner that the costs will be assessed against the property owner and the premises.

Sec. 19-11. Weeds and noxious vegetation. [Code 1955, § 3.1-1; Ord. No. 540; Ord. No. 831; Ord. No. 1123, 9-21-1924; Ord. No. 1245, 3-24-1999; Ord. No. 1269, 1-19-2000; Ord. No. 1376, 11-19-2003; Ord. No. 1507, 7-2-2008; Ord. No. 1531, 3-4-2009; Ord. No. 1580, § 4, 2-1-2012]

(a) Weeds and noxious vegetation—Prohibited in certain places.

(1) No owner, occupant or agent in charge of any lot or parcel of land located within the City shall permit or maintain thereon any:

a. Grasses, weeds, or any other vegetation on any part of a lot or parcel of land to a height greater than eight inches within 200 feet of the center line of a public street right-of-way or upon the untraveled portion of the public right-of-way lying between the road and sidewalk which abuts any such premises.

b. Any bush, shrub, tree or other vegetation or portion thereof obstructing or interfering with passage on a public sidewalk or street.

c. Any accumulation of dead weeds, grass, or brush, outside of an approved compost operation as permitted by Chapter 27.

d. Vegetation that is causing deterioration of a building or that creates channels for water or moisture to enter a building.

(2) Exceptions:

a. Nonresidential used lands in AG or I Zone Districts will be exempt if all the following conditions apply:

1. The parcel exceeds five acres of developed land or two acres of undeveloped land; and

2. The parcel is not adjacent to a residential zone district, or residentially used premises.

b. Intentional plantings that are maintained as evidenced by ongoing care such as weeding, watering and trimming and other affirmative acts which make it clear that the vegetation is not the result of mere neglect.

c. Parcels that have not been developed and are undisturbed in all zone districts.

d. Wetlands, wooded areas, slopes that have a vertical drop more than four feet at more than a forty-five-degree angle.

(3) An owner, occupant or agent shall not cause, suffer or allow Canada thistle, dodders, mustards, wild carrot, perennial sow thistle, hoary alyssum, bindweed,

ragweed, poison ivy, and poison sumac or other noxious weeds or plants detrimental to health to grow on any premises, or allow any accumulation of dead weeds, grass or brush thereon.

(b) Duty of owner, etc., to cut and remove. It shall be the duty of the owner and occupant of any premises within the City to cut and remove or destroy by lawful means all weeds, grass or vegetation as often as may be necessary to comply with the provisions of Subsection (a) of this section. During the process of cutting and removing all weeds, grass, or vegetation eight inches and higher, the cut weeds, grass or vegetations shall be promptly removed from the lawn, mulched on the site, or properly composted.

(c) Notice to abate. Notice of the provisions of this section shall be published in a newspaper circulating within the City once each month during the months of April through September of each year, which notice is deemed and declared to be adequate and sufficient notice to all persons affected hereby. Alternately, personal notice in accordance with Section 1-6 of this Code is deemed and declared to be adequate and sufficient notice to affected property owners. For vacant lots without a structure, the first notice in any calendar year shall be mailed by first class mail to the owner's last known address as shown on the tax rolls at least 10 days before the City abates the nuisance by mowing vegetation, subsequent notices may be posted pursuant to Section 1-6 of this Code.

(d) Abatement by City; charging cost. If the owner or occupant fails to abate a nuisance under Subsection (a) and (b) of this section within 48 hours after the notice to abate has been provided as allowed by Section 1-6(a) or (c) of this Code, then an enforcing officer may abate the nuisance without giving further notice. The enforcing officer may abate the nuisance by arranging for City employees or private contractors to cut the vegetation growth spray the vegetation or by other appropriate means. The cost of abating the nuisance may be charged against the premises and the owner in accordance with the provisions of Chapter 15 of the Holland City Charter. The cost shall be the standard hourly rate for labor and machine use for the City of Holland or the reasonable cost incurred by a private contractor, whichever is appropriate, plus an administrative fee as provided by the master fee resolution adopted by the City Council from time to time.

(e) Emergency abatement by City; charging cost. An enforcing officer may abate a public nuisance under Subsection (a) or (b) of this section, without giving notice, if the public health or safety requires immediate abatement. The cost of abating the nuisance may be charged against the premises and the owner in accordance with the provisions of Chapter 15 of the Holland City Charter. The cost shall be the standard hourly rate for labor and machine use for the City of Holland or the reasonable cost incurred by a private contractor, whichever is appropriate, plus an administrative fee as provided by the master fee resolution adopted by the City Council from time to time.

(f) Right of entry of enforcing officer, etc. An enforcing officer or his or her authorized representative is hereby empowered to enter upon any premises in the City for the purpose of determining compliance with Subsections (a) and (b) of this section.

(g) Appeal of assessment. A property owner assessed for abatement costs may appeal the assessment to the Director of Community and Neighborhood Services. On appeal, the Director shall determine whether:

(1) The property was in violation of Subsection (a) or (b) of this section;

(2) Whether the City provided notice as required by Subsection (d) before the City abated the condition (except for emergency abatements); and

(3) Whether the costs assessed against the property owner were properly calculated.

An appeal shall be filed within 21 days after the City mails notice to the property owner that the costs will be assessed against the property owner and the premises.

Sec. 19-12. Infested, etc., trees. [Code 1955, § 3-1.11; Ord. No. 431; Ord. No. 540; Ord. No. 1245, 3-24-1999; Ord. No. 1580, § 5, 2-1-2012]

(a) Box elders. Every box elder (Ager Negundo) tree, wherever situated in the City, serving as a breeding, feeding or clustering place for box elder bugs is hereby declared to be a public nuisance and shall be removed unless effectively treated by a licensed pest-control operator.

(b) Elms.

(1) Trees of all species and varieties of elm (Ulmus), Asian elm (Zelkova) and water elm (Planera), infected with the fungus organism Ceratocystisulmi, are hereby declared to be a public nuisance and all aboveground portions shall be destroyed by burning or by burying under a minimum of two feet of earth within 10 days following discovery of such infection or within seven days of receiving a notice to abate from an enforcing officer.

(2) It shall be unlawful to possess, sell, give away or transport all or any parts of trees infected with the aforementioned fungus; provided, that wood, branches and roots of such trees may be transported to a safe place for burning or burial if first properly treated.

(3) Trees or parts thereof, with bark attached, of Ulmus, Zelkova or Planera in a dead or dying condition that may serve as breeding places for the smaller European Elm Bark Beetle (Scolytusmultistriatus) or the native Elm Bark Beetle (Hylurgopinusrufipes) is hereby declared public nuisances. Transportation or possession within the City of such trees or parts thereof, except for immediate burning or burial, shall be unlawful unless the bark has been completely removed.

(c) Diseased, dying or dead trees. Any diseased, dying or dead tree, regardless of type which possesses a threat to the public right-of-way or neighboring property is declared a nuisance.

(d) Notice to abate. The enforcing officer, upon the failure of the owner, occupant or agent to comply with Subsections (a), (b) or (c), shall notify the owner, occupant or agent to abate such nuisance within seven days in accordance with the provisions of Section 1-6 [of this Code.]

(e) Abatement by City; charging cost. If the owner or occupant fails to abate a nuisance under Subsections (a), (b) or (c) of this section within seven days after notice has been mailed, the enforcing officer may abate the nuisance without giving further notice. The

enforcing officer may abate the nuisance by arranging for City employees or private contractors to cut the vegetation growth, spray the vegetation or other appropriate means. The cost of abating the nuisance may be charged against the premises and the owner in accordance with the provisions of Chapter 15 of the Holland City Charter. The cost shall be the standard hourly rate for labor and machine use for the City of Holland or the reasonable cost incurred with a private contractor, whichever is appropriate, plus an administrative fee as provided by the Master Fee Resolution adopted by the City Council from time to time.

(f) Emergency abatement by City; charging cost. The enforcing officer may abate any such public nuisance without giving notice, if the public health or safety requires immediate attention. The cost of abating the nuisance may be charged against the premises and the owner thereof, in accordance with the provision of Chapter 15 of the Holland City Charter. The cost shall be the standard hourly rate for labor and machine use for the City of Holland or the reasonable cost incurred with a private contractor, whichever is appropriate, plus an administrative fee as provided by the Master Fee Resolution adopted by the City Council from time to time.

(g) Right of entry of enforcing officer, etc. The enforcing officer or his or her authorized representative is hereby empowered to enter upon any premises in the City for the purpose of determining compliance with Subsection (a) or (b) of this section.

(h) Appeal of assessment. A property owner assessed for abatement costs may appeal the assessment to the Director of Community and Neighborhood Services. On appeal, the Director shall determine whether:

(1) The property was in violation of Subsection (a) or (b);

(2) The property owner and occupant were mailed notices of the violation at least seven days before the City abated the condition (except for emergency abatements); and

(3) The costs assessed against the property owner were properly calculated.

An appeal shall be filed within 21 days after the City mails notice to the property owner that the costs will be assessed against the property owner and the premises.

Sec. 19-13. Dismantled and inoperable vehicles. [Ord. No. 1395, 8-18-2004]

(a) Definitions. For the purposes of this section, the following words and phrases shall have the meanings respectively ascribed to them by this section:

DISMANTLED OR PARTIALLY DISMANTLED MOTOR VEHICLE — Any motor vehicle from which one or more parts, which are ordinarily components of such motor vehicle, have been removed or are missing.

ENFORCING OFFICER — The Director of Community and Neighborhood Services or his or her authorized representative.

INOPERABLE MOTOR VEHICLE — Any motor vehicle which by reason of dismantling, disrepair or other cause whatsoever is incapable of being propelled under its

own power, or which does not display or have affixed thereto current license plates or tabs as required by the state for the purpose of operating such vehicle upon public roads or streets.

MOTOR VEHICLE — Any wheeled vehicle which is self-propelled or intended to be self-propelled.

(b) Parking or storing upon private premises. No person shall park or store, or permit or suffer to be parked or stored, any dismantled, partially dismantled or inoperable vehicle or parts thereof upon any private premises within the City. If a person who receives notice under Subsection (c)(1) removes the vehicle or parts thereof within 10 days of the notice, that person shall not be deemed to have violated this section.

(c) Notice of violation—generally.

(1) A notice of violation as required by this section shall be given by the enforcing officer, in writing, clearly notifying the vehicle owner, premises owner or premises occupant of the identity and location of the dismantled, partially dismantled or inoperable motor vehicle and further notifying such one or more persons that failure to comply with this section within 10 days of receipt of such notice shall constitute a civil infraction.

(2) No notice of violation is required if notice was given to the same person for the same or a different dismantled, partially dismantled or inoperable vehicle or parts thereof within two years prior to such parking or storing.

(d) Service.

(1) The notice of violation referred to in Subsection (c)(1) may be served by personal service, certified mail, return receipt requested, or first class mail, and if by certified mail, return receipt requested, or first class mail, it shall be addressed as follows:

a. In the case of a vehicle owner, to the last known address of such owner as shown by the records of the office of the secretary of state of the registration of such vehicle.

b. In the case of a property owner, to the last known address of such owner taken from the tax records of the City.

c. In the case of a premises lessee, to the mailing address of such premises.

A mailed notice as herein set forth shall be an effective notice if actually received by the addressee, whether or not such notice of violation is addressed as set forth above.

(2) If the vehicle owner, premises owner or premises occupant has failed to comply with the notice referred to in Subsection (c)(1), or no notice is required under Subsection (c)(2), the enforcing officer may issue an appearance ticket upon the vehicle owner, property owner or premises occupant found to be responsible for the violation. The Class II municipal civil infraction appearance ticket shall be served personally on the vehicle owner, property owner or premises occupant. If such a person is not available upon the scene of the violation, the enforcing

officer may post the appearance ticket on the front door of the premises where the vehicle is located, and in addition, a copy of the citation shall be sent by first class mail to the owner of the land, building, or structure at the owner's last known address taken from the tax records of the City.

(e) Applicability of section.

(1) This section shall apply to the registered owner of any dismantled, partially dismantled or inoperable motor vehicle and to the owner and lessee of the premises whereon such a vehicle is parked or stored.

(2) This section shall not apply to any vehicle parked or stored within a wholly enclosed garage or other wholly enclosed structure.

(3) This section shall not apply to any premises owner or lessee who is not the registered owner of such a vehicle, who shall notify the enforcing officer, in writing, that such a vehicle is on such premises without the consent of the owner or lessee and shall authorize the enforcing officer to remove such vehicle pursuant to Act No. 99 of the Public Acts of 1964, as amended.[2]

(4) This section shall not apply to vehicles owned or in the possession of commercial auto sales or other businesses licensed under Chapter 16 of this Code.

Sec. 19-13.1. Inappropriate storage of items in unenclosed areas on residentially used properties. [Added 11-20-2013 by Ord. No. 1620; amended by Ord. No. 1694]

(a) No owner, occupant or agent in charge of any residentially used lot or parcel of land located within the City shall permit or maintain inappropriate storage in unenclosed areas on residentially used properties or the adjoining public right-of-way.

(b) Definitions. The following definitions shall apply to this section:

INAPPROPRIATE STORAGE — The storage of:

(1) Items designed or intended for interior use;

(2) Inoperable or deteriorated items;

(3) Appliances;

(4) Automobile parts;

(5) Construction material (unless stored for an active project with a valid permit); and

(6) The accumulation of items in excess of what is typically found on a residentially used property.

STORAGE — Keeping or housing items described in this section for:

(1) More than 24 hours; or

(2) Between the hours of 6:00 p.m. and 6:00 a.m. Eastern Standard Time.

2. **Editor's Note: See MCLA § 257.252.**

UNENCLOSED AREA —

(1) That part of the dwelling or accessory building not fully enclosed by walls, roofs, doors, windows and/or screens;

(2) Any part of the exterior premises and/or yard area; and

(3) On or in an unenclosed trailer parked in exterior areas of the premises or on adjoining right-of-way.

(c) Enforcing officer: the Director of Community and Neighborhood Services or his or her authorized representative.

(d) Notice of violation, civil infractions.

(1) A person found to be in violation of this section shall be given written warning of the violation by the enforcing officer notifying the property owner, occupant or agent of the violation, a general description of the inappropriate storage and that failure to comply with this section shall constitute a civil infraction. The warning shall be served in a manner provided in Section 1-6.

(2) A person who fails to correct a violation of Subsection (a) within seven days after being served with a warning or is found to be in violation of Subsection (a) within the 12 months after receiving a warning under Subsection (d)(1) is responsible for a civil infraction.

Sec. 19-14. Violations and penalties. [3-24-1999 by Ord. No. 1245; amended 8-18-2004 by Ord. No. 1395; 11-20-2013 by Ord. No. 1620]

A person who violates or fails to comply with Sections 19-4, 19-5, 19-8, 19-9, 19-10, 19-11, 19-12 and 19-13.1 of this chapter or any of the subsections of those sections is responsible for a Class I municipal civil infraction and subject to the civil fines set forth in the schedule of civil fines in Section 2-118 of this Code and any other relief that may be imposed by the court. A person who violates or fails to comply with Section 19-7 or Section 19-13 of this chapter or any of the subsections of that section is responsible for a Class II municipal civil infraction and subject to the civil fines set forth in the schedule of civil fines in Section 2-118 of this Code and any other relief that may be imposed by the court. Each act of violation and each day upon which such violation occurs shall constitute a separate violation.

ARTICLE II
False Security Alarms

Sec. 19-15. False security alarms; purpose. [Ord. No. 1520, § 2, 11-5-2008]

(a) The purpose of this article is to encourage security alarm users to properly install, use, and maintain alarm systems in order to improve the reliability of such systems and thereby reduce or eliminate false security alarms and to defray expenses to the City in responding to repeated false security alarms.

(b) This article governs the use of security alarm systems intended to summon the City of Holland Police Department; allows for the assessment of service fees; and provides for civil and criminal penalties.

Sec. 19-16. Definitions. [Ord. No. 1520, § 2, 11-5-2008]

(a) ALARM USER — Any person, partnership, corporation, unincorporated association or any group of persons, whether as owner, occupant, or tenant, upon whose premises a security alarm system is maintained or operated within the City of Holland, except for alarm systems on motor vehicles. If, however, the alarm system or a motor vehicle is connected with an alarm system at the premises, the person using such a system is an alarm user.

(b) DEPARTMENT — The City of Holland Police Department.

(c) ENFORCEMENT OFFICIAL — The City of Holland Police Chief or his/her designated representative.

(d) FALSE SECURITY ALARM — For the purposes of this article, any activation of any security alarm system not caused by criminal activity, a health and safety emergency, acts of God or verifiable interruptions of electrical or telephonic service to an alarm user, unless the alarm is canceled by the party that originally notified the police of the alarm before the police arrived on the scene. A false security alarm includes, but is not limited to, activation of a security alarm system through any of the following:

(1) Negligent or intentional use or misuse of the system;

(2) Mechanical failure;

(3) Malfunction; or

(4) Improper installation.

(e) SECURITY ALARM SYSTEM — Any device or equipment designed to signal visibly, audibly, electronically, mechanically or by any combination of these methods, the presence of a hazard, criminal activity or other health and safety threat requiring urgent attention, through a communication to the and to which the is trained to respond. The term "security alarm system" does not include an alarm designed to alert only the inhabitants of a premises or a fire alarm system.

(f) PREMISES — Any building or structure in which a security alarm system is installed.

(g) SERVICE FEE — The monetary charge payable to the City of Holland to defray the expenses of implementing the purposes of this article and the expenses of responding to false security alarms.

(h) AN ACT OF GOD — Is unusual, extraordinary, sudden or unexpected display of the forces of nature against which the science and the skill of mankind are of no avail.

Sec. 19-17. Responsibility for compliance; requirement of alarm user to respond to scene. [Ord. No. 1520, § 2, 11-5-2008]

(a) Unless otherwise stated herein, the alarm user shall be responsible for complying with all provisions of this article.

(b) The alarm user or designated agent of the alarm user shall appear at the premises upon request of the when a security alarm system has been activated.

Sec. 19-18. False security alarms. [Ord. No. 1520, § 2, 11-5-2008]

(a) A service fee shall be assessed for the fourth and each subsequent false security alarm at the same premises requiring response by the during any calendar year.

(b) False security alarms activated by any components connected to the security alarm system shall be included in computing the total number of false security alarms for purposes of this article.

Sec. 19-19. Service fee. [Ord. No. 1520, § 2, 11-5-2008]

Service fee established by this article shall be calculated periodically based on employee labor rates, equipment costs and the service costs and established by appropriate resolution adopted by City Council.

Sec. 19-20. Conflict with other City ordinances. [Ord. No. 1520, § 2, 11-5-2008]

If the provisions of this article conflict with any ordinance or resolution previously adopted by the City, the provisions of this article shall control.

Sec. 19-21. Penalties. [Ord. No. 1520, § 2, 11-5-2008]

In addition to any service fee or other sanction that may be imposed, a person who violates or fails to comply with this article shall be guilty of a Class III municipal civil infraction and subject to the civil fines set forth in the schedule of civil fines in Section 2-118 of the Holland City Code and shall be subject to any other relief that may be imposed by a court for such conduct. Each act of violation of this article and each day upon which such violation occurs shall constitute a separate violation.

Chapter 20

OFFENSES—MISCELLANEOUS

Sec. 20-1. Assault and battery.

Sec. 20-2. Disorderly persons prohibited.

Sec. 20-3. Acts and practices constituting.

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Sec. 20-5. Larceny under $200.

Sec. 20-6. Merchandise—altering identification or price indicators.

Sec. 20-7. Purchase, consumption, or possession of alcoholic liquor by minor; attempt; violation; fines; sanctions; penalties; furnishing fraudulent identification to minor; use by minor; prior violation; screening and assessment; prior judgement; chemical breath analysis; notice to parent, custodian, or guardian; exceptions; recruitment of minor for undercover operation prohibited; affirmative defense; definitions.

Sec. 20-8. Alcohol in a motor vehicle.

Sec. 20-9. Notices—interfering with, mutilating, tearing down, etc., official notices, etc.

Sec. 20-10. Drug paraphernalia.

Sec. 20-11. Telephones, etc.—using to terrorize, threaten, harass, etc., other persons.

Sec. 20-12. Weapons.

Sec. 20-13. Curfew for minors; definitions; adults responsible.

Sec. 20-14. Regulating the consumption or possession of an alcoholic beverage or controlled substance at a social gathering.

Sec. 20-15. Inhalation and consumption of chemical agents prohibited.

Sec. 20-16. Prohibitions against certain marihuana activities.

Sec. 20-17. Prohibition of marihuana establishments.

Sec. 20-1. Assault and battery. [Ord. No. 751]

If a person shall commit an assault or a battery, he or she shall be guilty of a misdemeanor, punishable as set forth in Section 1-10 of this Code.

Sec. 20-2. Disorderly persons prohibited. [Code 1955, § 3-3.1; Ord. No. 751]

No person shall be a disorderly person in the City.

Sec. 20-3. Acts and practices constituting. [Ord. No. 751; Ord. No. 803; Ord. No. 890; Ord. No. 950, 6-1-1988; Ord. No. 1072, 11-4-1992; Ord. No. 1090, 6-2-1993; Ord. No.

1136, 3-1-1995; Ord. No. 1305, 6-20-2001; Ord. No. 1380, 2-18-2004; Ord. No. 1416, 6-1-2005]

For the purposes of this chapter, a disorderly person shall be any person who shall do any of the following acts or engage in any of the following practices and any person who shall aid and abet another to do any such act or engage in any such practice:

(1) Disorderly intoxication. Be intoxicated or under the influence of any substance regulated by the state Controlled Substance Act of 1971, as amended, in any public street, park or place, and who is endangering directly the safety of another person or of property, or is acting in a manner which causes a public disturbance.

(2) Indecent exposure. Intentionally expose to view all or any portion of the genitalia, pudendum, or all or subsequently all of the female breasts or male or female buttock in any public place, or in such a manner that the same may be viewed by persons lawfully in a public place.

(3) Petting, fondling and sexual relations. Engage in any petting or fondling of the genitalia, pudendum, breasts or buttock of another in a public place, or engage in sexual relations or congress in a public place.

(4) Prostitution, solicitation, etc. Engage in prostitution or solicit, accost or invite another in a public place, or in or from any motor vehicle, boat or recreational vehicle for the purpose of inducing the commission of an act of sexual intercourse or any other lewd or immoral act, either physically or by verbal statements, gestures or electronic media.

(5) Nude entertainment. Solicit, procure by hire, permit or engage in any form of dancing or other entertainment for profit or otherwise, involving exhibition of the genitalia, pudendum, female breasts or male or female buttock of the performer.

(6) Frequenting a house of ill fame, etc. Attend, frequent, operate, or be an occupant or patron of a house of ill fame, brothel, or other place, knowing that prostitution, the illegal sale, transfer, or use of intoxicating liquor, the illegal sale, transfer, or use of controlled substances, or any other illegal business or occupation is permitted or conducted on the premises.

(7) Abusive language; harassment of police or peace officers.

(a) Willfully direct language toward another which by its very utterance inflicts injury upon another, or which tends to incite an immediate breach of the peace, or which, as a matter of common knowledge, is personally abusive and inherently likely to provoke a violent reaction.

(b) Willfully direct language toward a peace or police officer which, as a matter of common knowledge, is personally abusive and inherently likely to provoke a violent reaction in the police officer, with the intent to taunt, heckle or harass.

(c) Willfully direct language toward a peace or police officer which, as a matter of common knowledge, is personally abusive and inherently likely to provoke a violent reaction from ordinary citizens so as to incite or stimulate others to resist, obstruct, assault or interfere with a peace or police officer in the lawful pursuit of his or her duties.

(8) Impending investigation. Willfully act in a belligerent or boisterous manner so as to disrupt a police investigation.

(9) Resisting, obstructing, etc., police or peace officers. Willfully obstruct, resist, hinder or oppose any member of the police force or any peace officer in the discharge of his or her duties as such.

(10) False alarms, etc.

(a) Knowingly turn in any false alarm of fire, burglary, intrusion, robbery, hazard or injury to any public authority, licensed ambulance service or communications network organized to receive the same.

(b) Knowingly make a false statement or report to a police or peace officer in the course of a lawful investigation.

(11) Refusal to disperse. Whoever, with intent to cause public inconvenience, annoyance or alarm, or provoke a breach of the peace, or under circumstances such that the aforesaid may be occasioned, thereby congregates with others in a public place and refuses to disperse and move on when ordered so to do by a police or peace officer.

(12) Disturbing peace.

(a) Commit any act which is of a nature to corrupt public morals, outrage the sense of public decency or affect the peace and quiet of persons who may witness them.

(b) Disturb the public peace and quiet by loud, boisterous or vulgar conduct.

(c) Disturb or interfere with, by noisy or boisterous conduct, the quiet or good order of any public or private place of assembly, school, church, library or hospital.

(d) Disturb the public peace and quiet by permitting, suffering, or neglecting to prevent any place occupied or controlled by him or her to be a resort or place of loud noise, or loud, boisterous or vulgar persons.

(e) Disturb the public peace and quiet, except as provided in Section 19-6, by playing, using, operating, or permitting to be played, used or operated, any radio, "boom box", receiving set, stereo, musical instrument, or other electronic sound device inside or outside of a building or structure or in a parked or moving motor vehicle. The operation of any device described herein in a manner which is plainly audible at a distance of 50 feet from the building, structure, or vehicle shall be prima facie evidence of violation of this section.

(13) Refuse to identify. A person shall not refuse to identify himself or herself upon the lawful request of a police or peace officer. A lawful request shall meet the following requirements:

(a) A peace officer may detain any person whom the officer encounters under the following circumstances:

1. Reasonable suspicion that the person has committed, is committing, or is about to commit a crime.

2. Reasonable suspicion that the person has violated or is violating the conditions of his or her parole or probation.

(b) An officer may detain the person pursuant to this section only to ascertain his or her identity and the surrounding suspicious circumstances. Any person so detained shall identify himself, but the person may not be compelled to answer any other inquiry of any peace officer.

(c) A person must not be detained longer than is reasonably necessary to effect the purposes of this section, and in no event longer than 60 minutes. The detention must not extend beyond the place or the immediate vicinity of the place where the detention was first effected, unless the person is lawfully arrested.

(14) Accosting, molesting, etc., another. Accost, molest or otherwise annoy another by sound, gesture or display which by its communication inflicts injury, is likely to cause a breach of the peace, intimidates or otherwise causes fear, apprehension or distress.

(15) Fighting, etc. Provoke or engage in any fight, challenge to fight, brawl, riotous conduct or quarrel in a public place so as to endanger the life, limb, health or property of another.

(16) Jostling or crowding persons. Intentionally jostle or roughly crowd persons in any street, alley, park or public building.

(17) Window peeping. Engage in any window peeping, by making unauthorized observations into a dwelling of any activities of another, with intent to invade that person's privacy.

(18) Begging. Except as provided in Chapter 31 and Section 32-46 of the Code of the City of Holland, Michigan, or as otherwise authorized by law, no person shall beg or solicit for the immediate payment of money or goods from another person, whether or not in exchange for goods, services, or other consideration, under any of the following circumstances: **[Amended 9-19-2012 by Ord. No. 1591]**

(a) On private property, unless the solicitor has permission from the owner or occupant thereof;

(b) In any public transportation vehicle or public transportation facility;

(c) In any public parking structure and within 12 feet of any entrance or exit to any public parking structure;

(d) In any public alley and within 12 feet of any entrance or exit to any public alley;

(e) From a person who is in any vehicle on the street;

(f) In any manner which obstructs the free passage of pedestrian or vehicle traffic;

(g) Within 12 feet of a bank or automated teller machine;

(h) By moving to within two feet of the person solicited, unless that person has indicated that he/she wishes to be solicited;

(i) By following and continuing to solicit a person who walks away from the solicitor;

(j) By knowingly making a false or misleading representation in the course of a solicitation;

(k) In a manner that appears likely to cause a reasonable person of ordinary sensibilities to feel intimidated, threatened or harassed;

(l) Within 12 feet of the entrance to or exit from any public building; or

(m) From a person who is a patron at any outdoor cafe or restaurant.

(19) Fortune-telling, etc. Tell or pretend to tell fortunes for hire, gain, reward or profit, whether by means of cards, tokens, trances, inspection of the entrails or bodily parts of animals, inspection of the hands or skull, mind reading, consulting the movements of the heavenly bodies or otherwise; or for hire, gain, reward or profit pretend to enable another to recover lost or stolen property, pretend to give success in any business, enterprise, speculation or game of chance or induce any person to dispose of property in favor of another.

(20) Tampering with, defacing, etc., private or public property. Willfully destroy or damage or in any manner deface, destroy, injure or tamper with any property not his or her own, or mark or post handbills on or in any manner mar the walls of any public building, any fence, tree or pole within the City; or take or meddle with any property belonging to the City, or remove the same from the building or place where it may be kept, placed, standing or stored, without authority from the City Manager or other official custodian of such property.

(21) Spitting on street, etc. Spit on any street or sidewalk or in any public carrier, public building or place of public assemblage, except into receptacles placed there for such purpose.

(22) Unlawful entry, etc., in garden or orchard. Enter any garden or orchard located within the City without the consent of the owner or tenant or his or her agent, and there cut down, damage, destroy, eat or carry away any portion of such garden, including any growing thing, crop, tree, timber, grass, seed, soil, fertilizer, water supply, tool, implement, fence or any other protective device or any other thing used for development, cultivation, maintenance and use of such gardens or orchards.

(23) Registering under assumed name, etc. Register at any hotel, rooming house, trailer camp, tourist home, motel or other place offering overnight accommodations to the public under an assumed name or as the wife or husband of any person to whom he or she is not legally married.

(24) Selling, etc., liquor or beer to a drunken person, etc. Knowingly sell, give or furnish liquor or beer to any drunken person, intoxicated or disorderly or any habitual drunkard.

(25) Possession or consumption of alcoholic liquor in a public place. Possess or consume any alcoholic liquor in any public park, public place of amusement, or publicly owned area that is owned or administered, or both, by the City of Holland or the School District of the City of Holland, except as allowed under Section 22-10.

(26) Attempting to operate a motor vehicle while intoxicated. Attempt to operate a vehicle upon a highway or any other place open to the public, including any area designated for the parking of motor vehicles, when he or she is under the influence due to consumption of intoxicating liquor, narcotic drugs, barbital or any derivative of barbital.

(27) Placing, etc., glass or sharp objects. Place or throw glass, cans, bottles or dangerous pointed or edged substances in or on any beach, or waters adjacent thereto, highway or walk, or on public property within 50 feet of a public highway.

(28) Entry upon lands of another after having been forbidden so to do; refusal to depart therefrom. Willfully enter, upon the lands or premises of another without lawful authority, after having been forbidden so to do by the owner or occupant, agent or servant of the agent or occupant, or any person being upon the land or premises of another, upon being notified to depart therefrom by the owner or occupant, the agent or servant of either, or a member of the police force acting upon the request of the owner or occupant, the agent or servant of either, who without lawful authority neglects or refuses to depart therefrom.

(29) Urinating in public place. Urinating on any street, sidewalk or public place, other than public rest rooms.

(30) Entering without authority. Breaking and entering, or entering without breaking, any dwelling, house, tent, hotel, office, store, shop, warehouse, barn, granary, factory or other building, boat, ship, railroad car or structure used or kept for public or private use, or any private apartment therein, or any cottage, clubhouse, boat house, hunting or fishing lodge, garage or the outbuildings belonging thereto, or any other structure, whether occupied or unoccupied, without first obtaining the permission to enter from the owner or occupant, agent, or person having immediate control thereof. This section shall not apply to entering without breaking, any place which at the time of such entry was open to the public, unless such entry has been expressly denied. This section shall not apply in cases where the breaking and entering or entering without breaking were committed by a peace officer or someone under his or her direction in the lawful performance of his or her duties as such peace officer.

Sec. 20-4. Firearms, etc.—discharge. [Ord. No. 751; amended 11-19-2003 by Ord. No. 1377; 5-14-2014 by Ord. No. 1628]

(a) Unless that person is engaged in a supervised, regulated, and managed animal control activity under Section 22-9; is a sworn peace officer or member of a duly authorized military organization when acting in the discharge of his or her duty; is a citizen acting in self-defense; or is an individual shooting in an indoor archery and/or firearms shooting range that is licensed by the City:

(1) No person shall discharge any firearm, air rifle or other dangerous weapon expelling a projectile within or into the City; or

(2) No person shall have any such dangerous weapon in his or her possession in any public street, park or place, unless the same is licensed as required by law or securely wrapped or encased.

(b) With respect to privately owned agriculturally zoned areas within the City, firearms may be carried or discharged to the extent that such activity is conducted:

(1) With due care, caution and circumspection; and

(2) In a manner that will not endanger or be likely to endanger persons or property.

Sec. 20-5. Larceny under $200. [Ord. No. 751; Ord. No. 949, 6-1-1988; 1-17-2018 by Ord. No. 1714]

No person shall:

(a) Commit the offense of larceny by stealing the property of another, any money, goods, 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, public record or scrap metal with a value of $200 or less.

(b) Alter, transfer, remove, replace, conceal or otherwise misrepresent the price at which property is offered for sale, while a store is open to the public, with the intent not to pay for the property or to pay less than the price at which the property is offered for sale if the resulting difference in price is $200 or less.

Sec. 20-6. Merchandise—altering identification or price indicators. [Ord. No. 751]

No person shall change, switch, remove, deface, replace, cover or otherwise alter any label, tag, mark or other identification which is intended to identify merchandise to be sold or to indicate the price at which any merchandise is to be sold, without the consent of the owner or vendor of such merchandise.

Sec. 20-7. Purchase, consumption, or possession of alcoholic liquor by minor; attempt; violation; fines; sanctions; penalties; furnishing fraudulent identification to minor; use by minor; prior violation; screening and assessment; prior judgement; chemical breath analysis; notice to parent, custodian, or guardian; exceptions; recruitment of minor for undercover operation prohibited; affirmative defense; definitions. [Ord. No. 1180, 8-7-1996;[1] Ord. No. 1192, 4-2-1997; Ord. No. 1398, 10-20-2004; 1-17-2018 by Ord. No. 1703]

(a) A person less than 21 years of age ("minor") shall not purchase or attempt to purchase alcoholic liquor, consume or attempt to consume alcoholic liquor, possess or attempt to possess alcoholic liquor, or have any bodily alcohol content, except as provided in this section. A minor who violates this subsection is responsible for a civil infraction or guilty of a misdemeanor as follows and is not subject to the penalties prescribed in MCLA § 436.1909:

1. Editor's Note: This ordinance also repealed former Section 20-7, adopted by Ord. No. 751, as amended by Ord. No. 835; Ord. No. 887; and Ord. No. 1138, adopted 3-1-1995.

(1) For the first violation, the minor is responsible for a civil infraction and shall be fined not more than $100. A court may order a minor under this subdivision to participate in substance use disorder services as defined in § 6230 of the Public Health Code, 1978 PA 368, MCLA § 333.6230, and designated by the Administrator of the Office of Substance Abuse Services, and may order the minor to perform community service and to undergo substance abuse screening and assessment at his or her own expense as described in Subsection (e). A minor may be found responsible or admit responsibility only once under this subdivision.

(2) If a violation of this subsection occurs after one prior judgment, the minor is guilty of a misdemeanor. A misdemeanor under this subdivision is punishable by imprisonment for not more than 30 days if the court finds that the minor violated an order of probation, failed to successfully complete any treatment, screening, or community service ordered by the court, or failed to pay any fine for that conviction or juvenile adjudication, or by a fine of not more than $200, or both. A court may order a minor under this subdivision to participate in substance use disorder services as defined in § 6230 of the Public Health Code, 1978 PA 368, MCLA § 333.6230, and designated by the Administrator of the Office of Substance Abuse Services, to perform community service, and to undergo substance abuse screening and assessment at his or her own expense as described in Subsection (e).

(3) If a violation of this subsection occurs after two or more prior judgments, the minor is guilty of a misdemeanor. A misdemeanor under this subdivision is punishable by imprisonment for not more than 60 days, if the court finds that the minor violated an order of probation, failed to successfully complete any treatment, screening, or community service ordered by the court, or failed to pay any fine for that conviction or juvenile adjudication, or by a fine of not more than $500, or both, as applicable. A court may order a minor under this subdivision to participate in substance use disorder services as defined in § 6230 of the Public Health Code, 1978 PA 368, MCLA § 333.6230, and designated by the Administrator of the Office of Substance Abuse Services, to perform community service, and to undergo substance abuse screening and assessment at his or her own expense as described in Subsection (e).

(b) An individual who furnishes fraudulent identification to a minor or, notwithstanding Subsection (a), a minor who uses fraudulent identification to purchase alcoholic liquor is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $100, or both.

(c) If an individual who pleads guilty to a misdemeanor violation of Subsection (a)(2) or offers a plea of admission in a juvenile delinquency proceeding for a misdemeanor violation of Subsection (a)(2), the court, without entering a judgment of guilt in a criminal proceeding or a determination in a juvenile delinquency proceeding that the juvenile has committed the offense and with the consent of the accused, may defer further proceedings and place the individual on probation. The terms and conditions of that probation include, but are not limited to, the sanctions set forth in Subsection (a)(3), payment of the costs including minimum state cost as provided for in § 18m of Chapter XIIA of the Probate Code of 1939, 1939 PA 288, MCLA § 712A. 18m, and

§ 1j of Chapter IX of the Code of Criminal Procedure, 1927 PA 175, MCLA § 769.1j, and the costs of probation as prescribed in § 3 of Chapter XI of the Code of Criminal Procedure, 1927 PA 175, MCLA § 771.3. If a court finds that an individual violated a term or condition of probation or that the individual is utilizing this subsection in another court, the court may enter an adjudication of guilt, or a determination in a juvenile delinquency proceeding that the individual has committed the offense, and proceed as otherwise provided by law. If an individual fulfills the terms and conditions of probation, the court shall discharge the individual and dismiss the proceedings. A discharge and dismissal under this section is without adjudication of guilt or without a determination in a juvenile delinquency proceeding that the individual has committed the offense and is not a conviction or juvenile adjudication for purposes of disqualifications or disabilities imposed by law on conviction of a crime. An individual may obtain only one discharge and dismissal under this subsection. The court shall maintain a nonpublic record of the matter while proceedings are deferred and the individual is on probation and if there is a discharge and dismissal under this subsection. The Secretary of State shall retain a nonpublic record of a plea and of the discharge and dismissal under this subsection. These records shall be furnished to any of the following:

(1) To a court, prosecutor, or police agency on request for the purpose of determining if an individual has already utilized this subsection.

(2) To the department of corrections, a prosecutor, or a law enforcement agency, on the department's, a prosecutor's, or a law enforcement agency's request, subject to all of the following conditions:

a. At the time of the request, the individual is an employee of the Department of Corrections, the prosecutor, or the law enforcement agency, or an applicant for employment with the Department of Corrections, the prosecutor, or the law enforcement agency.

b. The record is used by the Department of Corrections, the prosecutor, or the law enforcement agency only to determine whether an employee has violated his or her conditions of employment or whether an applicant meets criteria for employment.

(d) A misdemeanor violation of Subsection (a) successfully deferred, discharged, and dismissed under Subsection (c) is considered a prior judgment for the purposes of Subsection (a)(3).

(e) A court may order an individual found responsible for or convicted of violating Subsection (a) to undergo screening and assessment by a person or agency as designated by the Department-designated community mental health entity as defined in § 100a of the Mental Health Code, 1974 PA 258, MCLA § 330.1100a, to determine whether the individual is likely to benefit from rehabilitative services, including alcohol or drug education and alcohol or drug treatment programs. A court may order an individual subject to a misdemeanor conviction or juvenile adjudication of, or placed on probation regarding, a violation of Subsection (a) to submit to a random or regular preliminary chemical breath analysis. The parent, guardian, or custodian of a minor who is less than 18 years of age and not emancipated under 1968 PA 293, MCLA

§ 722.1 to 722.6, may request a random or regular preliminary chemical breath analysis as part of the probation.

(f) The Secretary of State shall suspend the operator's or chauffeur's license of an individual convicted of a second or subsequent violation of Subsection (a) or of violating Subsection (b) as provided in § 319 of the Michigan vehicle code, 1949 PA 300, MCLA § 257.319.

(g) A peace officer who has reasonable cause to believe a minor has consumed alcoholic liquor or has any bodily alcohol content may request that individual to submit to a preliminary chemical breath analysis. If a minor does not consent to a preliminary chemical breath analysis, the analysis shall not be administered without a court order, but a peace officer may seek to obtain a court order. The results of a preliminary chemical breath analysis or other acceptable blood alcohol test are admissible in a civil infraction proceeding or criminal prosecution to determine if the minor has consumed or possessed alcoholic liquor or had any bodily alcohol content.

(h) A law enforcement agency, on determining that an individual who is less than 18 years of age and not emancipated under 1968 PA 293, MCLA § 722.1 to 722.6, allegedly consumed, possessed, or purchased alcoholic liquor, attempted to consume, possess, or purchase alcoholic liquor, or had any bodily alcohol content in violation of Subsection (a) shall notify the parent or parents, custodian, or guardian of the individual as to the nature of the violation if the name of a parent, guardian, or custodian is reasonably ascertainable by the law enforcement agency. The law enforcement agency shall notify the parent, guardian, or custodian not later than 48 hours after the law enforcement agency determines that the individual who allegedly violated Subsection (a) is less than 18 years of age and not emancipated under 1968 PA 293, MCLA § 722.1 to 722.6. The law enforcement agency may notify the parent, guardian, or custodian by any means reasonably calculated to give prompt actual notice including, but not limited to, notice in person, by telephone, or by first-class mail. If an individual less than 17 years of age is incarcerated for violating Subsection (a), his or her parents or legal guardian shall be notified immediately as provided in this subsection.

(i) This section does not prohibit a minor from possessing alcoholic liquor during regular working hours and in the course of his or her employment if employed by a person licensed by this act, by the Commission, or by an agent of the Commission, if the alcoholic liquor is not possessed for his or her personal consumption.

(j) The following individuals are not considered to be in violation of Subsection (a):

(1) A minor who has consumed alcoholic liquor and who voluntarily presents himself or herself to a health facility or agency for treatment or for observation including, but not limited to, medical examination and treatment for any condition arising from a violation of §§ 520b to 520g of the Michigan Penal Code, 1931 PA 328, MCLA § 750.520b to 750.520g, committed against a minor.

(2) A minor who accompanies an individual who meets both of the following criteria:

a. Has consumed alcoholic liquor.

b. Voluntarily presents himself or herself to a health facility or agency for treatment or for observation including, but not limited to, medical examination and treatment for any condition arising from a violation of §§ 520b to 520g of the Michigan Penal Code, 1931 PA 328, MCLA § 750.520b to 750.520g, committed against a minor.

c. A minor who initiates contact with a peace officer or emergency medical services personnel for the purpose of obtaining medical assistance for a legitimate health care concern.

(k) If a minor who is less than 18 years of age and who is not emancipated under 1968 PA 293, MCLA § 722.1 to 722.6, voluntarily presents himself or herself to a health facility or agency for treatment or for observation as provided under Subsection (j), the health facility or agency shall notify the parent or parents, guardian, or custodian of the individual as to the nature of the treatment or observation if the name of a parent, guardian, or custodian is reasonably ascertainable by the health facility or agency.

(l) This section does not limit the civil or criminal liability of a vendor or the vendor's clerk, servant, agent, or employee for a violation of this act.

(m) The consumption of alcoholic liquor by a minor who is enrolled in a course offered by an accredited postsecondary educational institution in an academic building of the institution under the supervision of a faculty member is not prohibited by this act if the purpose of the consumption is solely educational and is a requirement of the course.

(n) The consumption by a minor of sacramental wine in connection with religious services at a church, synagogue, or temple is not prohibited by this act.

(o) Subsection (a) does not apply to a minor who participates in either or both of the following:

(1) An undercover operation in which the minor purchases or receives alcoholic liquor under the direction of the person's employer and with the prior approval of the local prosecutor's office as part of an employer-sponsored internal enforcement action.

(2) An undercover operation in which the minor purchases or receives alcoholic liquor under the direction of the State Police, the commission, or a local police agency as part of an enforcement action unless the initial or contemporaneous purchase or receipt of alcoholic liquor by the minor was not under the direction of the State Police, the commission, or the local police agency and was not part of the undercover operation.

(p) The State Police, the commission, or a local police agency shall not recruit or attempt to recruit a minor for participation in an undercover operation at the scene of a violation of Subsection (a), § 701(1), or § 801(2).

(q) In a prosecution for the violation of Subsection (a) concerning a minor having any bodily alcohol content, it is an affirmative defense that the minor consumed the alcoholic liquor in a venue or location where that consumption is legal.

(r) As used in this section:

ANY BODILY ALCOHOL CONTENT — Either of the following:

(1) An alcohol content of 0.02 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.

(2) Any presence of alcohol within a person's body resulting from the consumption of alcoholic liquor, other than consumption of alcoholic liquor as a part of a generally recognized religious service or ceremony.

EMERGENCY MEDICAL SERVICES PERSONNEL — That term as defined in § 20904 of the Public Health Code, 1978 PA 368, MCLA § 333.20904.

HEALTH FACILITY OR AGENCY — That term as defined in § 20106 of the Public Health Code, 1978 PA 368, MCLA § 333.20106.

PRIOR JUDGMENT — A conviction, juvenile adjudication, finding of responsibility, or admission of responsibility for any of the following, whether under a law of this state, a local ordinance substantially corresponding to a law of this state, a law of the United States substantially corresponding to a law of this state, or a law of another state substantially corresponding to a law of this state:

(1) This section or § 701 or 707.

(2) Section 624a, 624b, or 625 of the Michigan Vehicle Code, 1949 PA 300, MCLA §§ 257.624a, 257.624b, and 257.625.

(3) Section 80176, 81134, or 82127 of the Natural Resources and Environmental Protection Act, 1994 PA 451, MCLA §§ 324.80176, 324.81134, and 324.82127.

(4) Section 167a or 237 of the Michigan Penal Code, 1939 PA 328, MCLA §§ 750.167a and 750.237.

Sec. 20-8. Alcohol in a motor vehicle. [Ord. No. 1179, 8-7-1996[2]]

(a) Transport or possess prohibited. A person less than 21 years of age shall not knowingly transport or possess, in a motor vehicle, alcoholic liquor. A person who violates this subsection is guilty of a misdemeanor.

(b) Exceptions. Section 20-8(a) does not prohibit a person less than 21 years of age from transporting or possessing, in a motor vehicle, alcoholic liquor if the person is employed by a person licensed to sell or transport alcoholic liquor, a common carrier designated by the Liquor Control Commission, the Liquor Control Commission, or an agent of the Liquor Control Commission, and the person is transporting or having the alcoholic liquor in a motor vehicle under the person's control during regular working hours and in the course of the person's employment.

(c) Penalties. A person who violates Section 20-8(a) shall be guilty of a misdemeanor punishable by a fine and costs not exceeding $500, or by imprisonment for not more than 90 days, or both, and sanctions against his or her operator's or chauffeur's license as may be required by state law on a person convicted of violating Section 20-8(a).

2. Editor's Note: This ordinance also repealed former Section 20-8, adopted by Ord. No. 751.

Sec. 20-9. Notices—interfering with, mutilating, tearing down, etc., official notices, etc. [Ord. No. 751]

No person shall interfere with, obstruct, mutilate, conceal or tear down any official notice or placard posted by any City officer or any aide or employee of the City under authority of the City officer, unless permission is given by such officer to remove such notice.

Sec. 20-10. Drug paraphernalia. [Ord. No. 1181, 8-7-1996[3]]

(a) Definitions.

(1) CONTROLLED SUBSTANCE — A drug, substance or immediate precursor listed in Article 7 of Act No. 368 of the Public Acts of Michigan of 1978 (MCLA § 333.7101 et seq.) as amended.

(2) DRUG PARAPHERNALIA — Any equipment, product, material, or combination of equipment, products or materials, which is used, intended for use, or specifically designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of state or local law; including, but not limited to, all of the following:

a. A kit used, intended for use, or specifically designated for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived.

b. A kit used, intended for use, or specifically designed for use in manufacturing, compounding, converting, producing, processing, or preparing a controlled substance.

c. An isomerization device used, intended for use, or specifically designed for use in increasing the potency of any species of plant which is a controlled substance.

d. Testing equipment used, intended for use, or specifically designed for use in identifying or in analyzing the strength, effectiveness or purity of a controlled substance.

e. A weight scale or balance used, intended for use, or specifically designed for use in weighing or measuring a controlled substance.

f. A diluent or adulterant, including, but not limited to, quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use, or specifically designed for use in cutting a controlled substance.

3. Editor's Note: This ordinance also repealed former Section 20-10, adopted by Ord. No. 751.

g. A separation gin or sifter used, intended for use or specifically designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana.

h. A blender, bowl, container, spoon or mixing device used, intended for use or specifically designed for use in compounding a controlled substance.

i. A capsule, balloon, envelope or other container used, intended for use or specifically designed for use in packaging small quantities of a controlled substance.

j. A container or other object used, intended for use or specifically designed for use in storing, carrying or concealing a controlled substance; including a device, commonly known as an automotive safe, that is specifically designed to carry and conceal a controlled substance in an automobile, including but not limited to, a can used for brake fluid, oil or carburetor cleaner which contains a compartment for carrying and concealing controlled substances.

k. A hypodermic syringe, needle or other object used, intended for use or specifically designed for use in parentally injecting a controlled substance into the human body.

l. An object used, intended for use or specifically designed for use in ingesting, inhaling or otherwise delivering, carrying or introducing marijuana, cocaine, hashish or hashish oil to, or into, the human body, such as:

1. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;

2. Water pipes;

3. Carburetion tubes and devices;

4. Smoking and carburetion mask;

5. Roach clips: meaning objects used to hold burning materials, such as a marijuana cigarette, that has become too small or too short to be held in the hand;

6. Miniature cocaine spoons and cocaine vials;

7. Chamber pipes;

8. Carburetor pipes;

9. Electric pipes;

10. Air-driven pipes;

11. Chillums;

12. Bongs;

13. Ice pipes or chillers;

14. A device, commonly known as a cocaine kit, which consists of at least a razor blade and a mirror.

15. A device commonly known as a snorter;

16. A device commonly known as a bullet.

(3) In determining whether an object is drug paraphernalia, the following should be considered in addition to all other logically relevant factors:

a. Statements by an owner, or by anyone in control of the object, concerning its use.

b. The proximity of the object, in time and space, to a direct violation of state law or local ordinance.

c. The proximity of the object to a controlled substance.

d. The existence of any residue of a controlled substance on the object.

e. Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to a person whom he or she knows intends to use the object to facilitate a violation of state or local law; the innocence of an owner, or of anyone in control of the object, as to a direct violation of state or local law shall not prevent a finding that the object is used, intended for use, or specifically designed for use as drug paraphernalia.

f. Instructions, oral or written, provided with the object concerning its use.

g. Descriptive materials accompanying the object which explain or depict its use.

h. National and local advertising concerning its use.

i. The manner in which the object is displayed for sales.

j. Whether an owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products.

k. Direct or circumstantial evidence of the ratio of sales of the object to the total sales of the business enterprise.

l. The existence and scope of legitimate uses for the object in the community.

m. Expert testimony concerning its use.

(b) Possession of drug paraphernalia. A person shall not use, or possesses with the intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of state or local law.

(c) Manufacture, delivery or sale of drug paraphernalia.

(1) Subject to Subsection (c)(2), a person shall not deliver, sell, offer for sale, possess with intent to deliver or sell, or manufacture with the intent to deliver or sell, drug paraphernalia, knowing that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of state or local law.

(2) Before a person is arrested for a violation of Subsection (c)(1), the City Attorney shall notify the person in writing, not less than two business days before the person is to be arrested, that the person is in possession of specific, defined material that has been determined by the City Attorney to be drug paraphernalia. The notice shall also request that the person refrain from delivering, selling, offering for sale, possessing with intent to deliver or sell, or manufacturing with the intent to deliver or sell the material and shall state if the person complies with the notice, then no arrest will be made for a violation of Subsection (c)(1).

(3) If a person complies with a notice sent under Subsection (c)(2), then the compliance is a complete defense for the person against a prosecution of this subsection as long as the compliance continues.

(4) A person who receives a notice under Subsection (c)(2) may commence an action for a declaratory judgment to obtain an adjudication of the legality of the intended sale or offer to sell. The City Attorney who sent the notice shall be made the defendant to such an action.

(5) If a declaratory judgment has been issued stating that the delivery, sale, offer to sell, possession with intent to deliver to sell, or manufacturing with intent to deliver or sell specified material does not violate Subsection (c)(1), then the declaratory judgment is a complete defense for the person obtaining such a judgment against a prosecution under Subsection (c).

(d) Advertisement of drug paraphernalia. A person shall not place in any newspaper, magazine, handbill, sign, poster, or other publication any advertisement, knowing that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as drug paraphernalia.

(e) Exceptions. This section shall not apply to a manufacturer, wholesaler, jobber, dealer in medical, dental, surgical or pharmaceutical supplies, licensed medical technician, technologist, medical doctor, nurse, osteopathic physician, dentist, chiropodist, veterinarian, pharmacist, embalmer, or other person licensed under MCLA §§ 339.101 to 339.2721, or an intern, trainee, apprentice or assistant in a profession licensed under same, in the normal, legal course of his or her respective business or profession, nor to a hospital, sanitarium, research teaching institution, clinical laboratory, or other health care institution, including a penal, correctional or juvenile detention facility for use in that institution, nor to a person suffering from diabetes, asthma, or any other medical condition requiring self-injection.

(f) Civil forfeiture. Any drug paraphernalia used, sold, possessed with intent to use or sell, or manufactured with intent to use or sell in violation of this section shall be seized and

forfeited to the City pursuant to the forfeiture proceedings set forth in MCLA § 333.7522 through MCLA § 333.7524a.

(g) Delivery or sale to a minor. A person 18 years of age or older who violates Subsection (c) of this section by delivering, selling, or offering to sell drug paraphernalia to a person less than 18 years of age, shall be guilty of a misdemeanor and shall be punished by a fine of not less than $250 nor more than $500, and by imprisonment of not less than three days nor more than 90 days, in the discretion of the court.

Sec. 20-11. Telephones, etc.—using to terrorize, threaten, harass, etc., other persons. [Ord. No. 751]

No person shall maliciously use any telephone service or radio communications common carrier with intent to terrorize, frighten, intimidate, threaten, harass, molest or annoy any other person.

Sec. 20-12. Weapons. [Ord. No. 751; Ord. No. 1135, 3-1-1995; Ord. No. 1377, 11-19-2003]

(a) No person shall, with the intent to use the same unlawfully against the person of another, go armed with a pistol or other firearm, dagger, dirk, razor, stiletto, or knife having a blade over three inches in length, or any other dangerous or deadly weapon or instrument.

(b) No person shall carry a dagger, dirk, stiletto, metallic knuckles, slung-shot, a double-edged nonfolding stabbing instrument of any length, or any other dangerous weapon, except a hunting knife adapted and carried as such, concealed on or about his or her person, or whether concealed or otherwise in any vehicle operated or occupied by the person, except in his or her dwelling house, place of business or on other land possessed by the person.

(c) This section shall not apply to a person lawfully engaged in an authorized, supervised, regulated, and managed animal control activity under Section 22-9 of the Ordinance Code.

Sec. 20-13. Curfew for minors; definitions; adults responsible. [Ord. No. 1073, 11-18-1992]

(a) Purpose. The people of the City of Holland enact this section to:

(1) Protect the public from the illegal acts of minors committed after the curfew hour;

(2) Protect minors from improper influences that prevail after the curfew hours;

(3) Protect minors from criminal activity that occurs after the curfew hour; and

(4) Require parents to exercise control of their minor children.

(b) Definitions. In the interpretation of this section, the following definitions shall apply:

(1) MINOR — Any person under the age of 17 years.

(2) PARENT — Includes mother, father, legal guardian, and any other person having the care or custody of a minor or such other adult with whom a minor may be found residing.

(3) RESIDENCE — A home, apartment, condominium, or other dwelling unit and includes the curtilage of such dwelling.

(c) Curfew for minors.

(1) Minors 12 years and under. No minor the age of 12 or under shall be upon, in, or on any public street, highway, alley, park, vacant lot, or other public place between the hours of 10:00 p.m. and 6:00 a.m. of the following day, unless subject to the exceptions set forth in Subsection (c)(3).

(2) Minors 13 years to 16 years. No minor the age of or between the age of 16 and 13 years shall be upon, in, or on any public street, highway, alley, park, vacant lot, or other public place between the hours of 12:00 midnight and 6:00 a.m. of the following day, unless subject to the exceptions set forth in Subsection (c)(3).

(3) Exceptions to the operation of the curfew. A minor shall not violate the provisions of this section if any of the following exceptions are found to exist:

a. Where the minor is accompanied by a parent, guardian, or some adult over 21 years of age delegated by the parent or guardian to accompany the minor child for a designated period of time and for a specific purpose within a specified area;

b. Where the minor is a resident of another City or a resident of the City of Holland and is in a motor vehicle with parental consent and is travelling through the City of Holland or the City of Holland is the origin destination of interstate travel. This exception shall not apply to minors sitting in parked vehicles without parental consent.

c. Where the minor is employed in the course of lawful employment or for a period of 1/2 hour before to 1/2 hour after work, while travelling a direct route between such place of employment and his or her residence, and carried on his person a written statement signed by his or her employer showing the time when the minor left work on that day.

(d) Parental responsibility for minors violating curfew. No parent shall knowingly fail, permit, or neglect to supervise a minor from violating the provisions of Section 20-13(c). A rebuttable presumption of a violation shall occur if the following is found to exist:

(1) The parent of such minor is immediately notified by the Police Department, advising the parent of the arrest or detention of the minor; the reason for such detention; and the parent's responsibility under this section. A record of such notification(s) shall be maintained by the Police Department.

(2) Any parent who fails to pick up a minor detained by the Police Department upon notification by the Police Department or any parent who has received two prior

notifications regarding curfew violations of any minor within their control shall be guilty of a misdemeanor.

(e) Aiding or abetting violations; misdemeanor. Any person of the age of 17 years or over assisting, aiding, abetting, allowing, permitting, or encouraging any minor under the age of 17 years to violate the provisions of Section 20-13(c)(1) or (2) hereof is guilty of a misdemeanor.

Sec. 20-14. Regulating the consumption or possession of an alcoholic beverage or controlled substance at a social gathering. [Ord. No. 1137, 3-1-1995; amended 1-17-2018 by Ord. No. 1714]

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

ALCOHOLIC BEVERAGE — An alcoholic liquor as defined in § 105 of the Michigan Liquor Control Act of 1998, Act No. 58 of the Public Acts of 1998, being MCLA § 436.1105.

ALLOW — To give permission for, or approval of, possession or consumption of an alcoholic beverage or a controlled substance, by any of the following means:

(1) In writing.

(2) By one or more oral statements.

(3) By any form of conduct, including a failure to take corrective action that would cause a reasonable person to believe that permission or approval has been given.

CONTROL OVER ANY PREMISES, RESIDENCE, OR OTHER REAL PROPERTY — The authority to regulate, direct, restrain, superintend, control, or govern the conduct of other individuals on or within that premises, residence, or other real property, and includes, but is not limited to, a possessory right.

CONTROLLED SUBSTANCE — That term as defined in § 7104 of the Public Health Code, Act No. 368 of the Public Acts of 1978, being § 333.7104 of the Michigan Compiled Laws.

CORRECTIVE ACTION — Any of the following:

(1) Making a prompt demand that the minor or other individual depart from the premises, residence, or other real property, or refrain from the unlawful possession or consumption of the alcoholic beverage or controlled substance on or within that premises, residence, or other real property, and taking additional action described in Subsections (2) and (3) if the minor or other individual does not comply with the request.

(2) Making a prompt report of the unlawful possession or consumption of alcoholic liquor or a controlled substance to a law enforcement agency having jurisdiction over the violation.

(3) Making a prompt report of the unlawful possession or consumption of alcoholic liquor or a controlled substance to another person having a greater degree of

authority or control over the conduct of persons on or within the premises, residence, or other real property.

MINOR — An individual less than 21 years of age.

PREMISES — A permanent or temporary place of assembly, other than a residence, including, but not limited to, any of the following:

(1) A meeting hall, meeting room, or conference room.

(2) A public or private park.

RESIDENCE — A permanent or temporary place of dwelling, including, but not limited to, any of the following:

(1) A house, apartment, condominium, or mobile home.

(2) A cottage, cabin, trailer, or tent.

(3) A motel unit, hotel unit, or bed-and-breakfast unit.

SOCIAL GATHERING — An assembly of two or more individuals for any purpose, unless all of the individuals attending the assembly are members of the same household or immediate family.

(b) Prohibitions. Except as otherwise provided in Subsection (c), an owner, tenant, or other person having control over any premises, residence, or other real property shall not do either of the following:

(1) Knowingly allow a minor to consume or possess an alcoholic beverage at a social gathering on or within that premises, residence, or other real property.

(2) Knowingly allow any individual to consume or possess a controlled substance at a social gathering on or within that premises, residence, or other real property.

(c) Exceptions. This section does not apply to the use, consumption, or possession of a controlled substance by an individual pursuant to a lawful prescription, or to the use, consumption, or possession of an alcoholic beverage by a minor for religious purposes.

(d) Penalties. A person who violates Subsection (b) is guilty of a misdemeanor subject to the penalties set forth in Section 1-10.

(e) Presumptions. Evidence of all of the following gives rise to a rebuttable presumption that the defendant allowed the consumption or possession of an alcoholic beverage or a controlled substance on or within a premises, residence, or other real property, in violation of this section:

(1) The defendant had control over the premises, residence, or other real property.

(2) The defendant knew, or reasonably should have known, that a minor was consuming or in possession of an alcoholic beverage or knew, or reasonably should have known, that an individual was consuming or in possession of a controlled substance at a social gathering on or within that premises, residence, or other real property.

(3) The defendant failed to take corrective action.

Sec. 20-15. Inhalation and consumption of chemical agents prohibited. [Ord. No. 1312, 8-15-2001]

(a) No person shall, for the purpose of causing a condition of intoxication, euphoria, excitement, exhilaration, stupefaction or dulling of the senses or nervous system, intentionally smell or inhale the fumes of any chemical agent or intentionally drink, eat or otherwise introduce any chemical agent into his or her respiratory or circulatory system. This shall not prohibit the inhalation of any anesthesia for medical or dental purposes. (MCLA § 752.272)

(b) As used in this section, "chemical agent" means any substance containing a toxic chemical or organic solvent or both, having the property of releasing toxic vapors. The term includes, but is not limited to, glue, acetone, toluene, carbon tetrachloride, hydrocarbons and hydrocarbon derivatives. (MCLA § 752.271)

(c) A person who is convicted of a violation of this section may be punished by imprisonment for not more than 93 days or by a fine of not more than $100, or both.

Sec. 20-16. Prohibitions against certain marihuana activities. [Added 12-5-2018 by Ord. No. 1755]

(a) In conformance with §§ 4.1 and 6.2 of the of the Michigan Regulation and Taxation of Marihuana Act (the "Act"), Initiated Law 1 of 2018 (MCLA §§ 333.27951 to § 333.27967):

(1) No person shall transfer marihuana or marihuana accessories to a person under the age of 21;

(2) No person shall engage in the separation of plant resin by butane extraction or another method that utilizes a substance with a flash point below 100° F. in any public place, motor vehicle, or within the curtilage of any residential structure;

(3) No person shall consume marihuana or smoke marihuana in a public place or smoke marihuana where prohibited by the person who owns, occupies, or manages the property;

(4) No person shall cultivate marihuana plants if the plants are visible from a public place without the use of binoculars, aircraft, or other optical aids or outside of an enclosed area equipped with locks or other functioning security devices that restrict access to the area;

(5) No person shall consume marihuana while operating, navigating, or being in the physical control of any motor vehicle, aircraft, snowmobile, off-road recreational vehicle, or motorboat, or smoke marihuana within the passenger area of a vehicle upon a public way;

(6) No person shall possess marihuana accessories or possess or consume marihuana on the grounds of a public or private school where children attend classes in

preschool programs, kindergarten programs, or Grades 1 through 12, in a school bus, or on the grounds of any correctional facility.

(b) Violations and penalties. A person who violates or fails to comply with this section shall be responsible for a civil infraction punishable by a fine of $100 and forfeiture of the marihuana.

(c) This section does not prohibit any activity that is authorized by the Act or other state or federal law.

Sec. 20-17. Prohibition of marihuana establishments. [Added 12-19-2018 by Ord. No. 1757]

(a) Pursuant to the provisions of § 6.1 of the Michigan Regulation and Taxation of Marihuana Act (the "Act"), Initiated Law 1 of 2018 (MCLA §§ 333.27951 to 333.27967), marihuana establishments, as defined by the Act, are completely prohibited within the boundaries of the City.

(b) Any applicant for a state or local license to establish a marihuana establishment, as defined by the Act, within the boundaries of the City shall be deemed to be not in compliance with this section or with the Code of Ordinances amended by this ordinance.

(c) Except as set forth above, this section does not prohibit any activity that is authorized by the Act or other state or federal law.

Chapter 21

OIL AND GAS DRILLING

Sec. 21-1. Declaration of policy; construction of chapter.

Sec. 21-2. Definitions.

Sec. 21-3. Permit—required.

Sec. 21-4. Application generally and accompanying data; filing fee generally.

Sec. 21-5. Investigations, etc.; issuance generally; notice and hearing required in certain cases; when permit not to be issued.

Sec. 21-6. Bond or insurance required.

Sec. 21-7. Refund of portion of filing fee if permit not issued.

Sec. 21-8. Void upon failure to commence operations within 60 days.

Sec. 21-9. Copy to be forwarded to State Supervisor of Wells; copy to be posted.

Sec. 21-10. Transfer.

Sec. 21-11. Suspension and revocation.

Sec. 21-12. Minimum drilling unit and location of wells.

Sec. 21-13. Production and operation requirements.

Sec. 21-14. Equipment and materials.

Sec. 21-15. Abandonment of wells.

Sec. 21-16. Violations declared nuisances.

Sec. 21-1. Declaration of policy; construction of chapter. [Ord. No. 455]

(a) The business and occupation of drilling and exploring for, producing, obtaining, transporting, gathering and storing of oil, gas, petroleum and hydrocarbons within the City is a potentially hazardous and dangerous business and occupation. It is necessary that such business and occupation be regulated, controlled and limited for the purpose of providing protection for the lives, health, welfare and safety of the citizens of the City and of the public generally and for the protection of property from the danger of fire, explosion, gas leaks, nuisances and other hazards injurious to the public peace, health, welfare and safety.

(b) The provisions of this chapter shall be deemed to be the minimum requirements for the preservation of the public peace, health, safety and welfare, and compliance with all terms thereof shall not be deemed to relieve any person from any duty imposed by law to use all necessary care and take all necessary precautions for the safeguarding of the public peace, health and safety and the rights of any individual or group of individuals, and it shall be the duty of any person drilling, operating or maintaining any well to use all necessary care and take all precautions of whatsoever nature which shall be reasonably necessary under the circumstances to protect the public or the rights of any part thereof.

Sec. 21-2. Definitions. [Ord. No. 455]

Words used in this chapter unless otherwise defined shall have the common meaning of such words as generally understood in the oil and gas industry, unless the content herein clearly implies otherwise.

Sec. 21-3. Permit—required. [Ord. No. 455]

No person shall drill or deepen a well, or reopen a plugged well, for the production of oil, gas or other hydrocarbons, or for the injection of any fluid into any oil or gas-producing formation, until such person shall obtain a permit therefor as required in this chapter.

Sec. 21-4. Application generally and accompanying data; filing fee generally. [Ord. No. 455; Ord. No. 788; Ord. No. 1069, 10-7-1992]

Any person desiring to drill, deepen or reopen any well regulated by this chapter shall fill out, sign and file an application in writing therefor upon forms provided by the City Clerk, accompanied by a filing fee as established by a resolution adopted by City Council to apply on the cost and expenses of the administration of this chapter. The application shall contain information as to the location of the proposed well and attached thereto shall be a map, plat or survey of the area to be drilled showing the location of the well on such unit together with the proposed location of tanks, flow lines, fences and details incident to the proposed drilling operation. The location of such well shall be stated in relation to established street or plat lines or, in lieu thereof, quarter section lines. Such application shall show the names of the owners of the oil and gas in the drilling unit and all leases thereon, insofar as such names and leases are known to the applicant or are a matter of public record. Such application shall also be accompanied by the consent in writing of the owner of the drill site, consenting to the drilling of the well on his or her property. Attached to such application shall be duly certified or photostatic copies of all leases for the discovery and removal of oil and gas, together with ratifications thereof, executed by the owners of all oil and gas in the drilling unit, owned or controlled by the applicant, together with a statement of all other leases insofar as known to the applicant setting forth the names of the lessors and lessees of each such respective lease. In the event that such leases shall by their terms provide for and consent to such drilling, the consent therein provided shall be deemed sufficient-compliance with the requirements for the consent of the lessor as herein provided. Bond, as set forth in this chapter, shall also accompany and be filed with such application.

Sec. 21-5. Investigations, etc.; issuance generally; notice and hearing required in certain cases; when permit not to be issued. [Ord. No. 455]

The City Clerk may refer any application for a permit under the provisions of this chapter to the Chief of Police, Fire Chief, Building Inspector, City Engineer, City Assessor, City Attorney, Superintendent of Utilities or any two or more of them, for an investigation and recommendation on matters pertaining to the public safety, health or welfare which are or may be involved in the exercise of the permit applied for, and the City Clerk may require the giving of adequate proof to establish the identity of the applicant.

If it shall be made to appear, either upon the face of such application or by other satisfactory proof, that the applicant is the owner or has under his or her control, either as owner or lessee, or both, all interests in the area to be drilled, and such applicant showing compliance with all the requirements set forth in this chapter, the statutes of the state and the regulations promulgated by the Supervisor of Wells of the state, the City Clerk shall grant the permit without further notice.

If such application shows that the applicant for a permit to drill a well for oil or gas is not the owner, or does not have under his or her control for drilling purposes all the interests in all the oil or gas in the drilling unit, or if for any other valid reason the City Clerk determines not to issue a permit forthwith, then the City Clerk shall refer the application to the Board of Appeals of the City and shall fix a time and place for a public hearing thereon.

The City Clerk shall thereupon cause notice of such hearing to be given by certified mail to all known owners of the lands containing oil and gas within the drilling unit and the lessees thereof under all leases of record, addressed to their last known place of residence, nor less than seven days prior to the date of such hearing. The City Clerk shall also publish a notice in the public newspaper published and printed in the City at least five days prior to the hearing thereon. Such notices shall be dated and contain a description of the property affected, and shall state the time, date, place and purpose of the hearing. An affidavit by the City Clerk showing such publication and mailing of notices shall be attached to the application by the City Clerk and shall constitute prima facie evidence that such notice was actually given.

The Board of Appeals of the City shall at the time and place designated for such hearing, or at some later date to which the hearing may be adjourned, conduct the hearing upon the application for a permit to drill such well. At such hearing all persons interested shall be heard. Upon the completion of the public hearing, if the Board of Appeals finds that the applicant's proposed drilling operation is in conformity with the provisions of this code and other ordinances of the City, the statutes of the state an all regulations promulgated by the Supervisor of Wells of the state, such Board shall enter such findings in its minutes and shall direct the City Clerk to issue the permit.

No permit shall be granted where the Board of Appeals finds as a matter of fact that the granting of such permit would create or materially increase the hazard of fire in the particular area involved. No permit shall be issued in any instance where the applicant's proposed drilling operations or any activity in connection therewith would be in violation of the Zoning Ordinances of the City.

Sec. 21-6. Bond or insurance required. [Ord. No. 455; Ord. No. 788]

The application for a permit under this chapter shall also be accompanied by, and no permit for the drilling of any well shall be issued without, a duly executed bond given by the applicant as principal and executed by some bonding or indemnity company authorized to do business in the state as surety, running to the City, for the benefit of the City and all persons concerned, conditioned that if the permit be granted the applicant will comply with the terms and conditioned that if the permit be granted the applicant will comply with the terms and conditions of this chapter in the drilling and operation of the proposed well, and that the applicant will pay and discharge any liability imposed by law for damages on account of

injury to property, either public or private, or bodily injury or death, received or suffered by any person and resulting from the drilling operation or maintenance of any well or any structures, equipment, machinery, lines or appurtenances thereto used or allowed in the drilling or producing operation, and for clearing from the area to be drilled all litter, machinery, derricks, trenches, pits, debris, oil, waste and other substances used thereto or produced in connection therewith in the drilling, producing or pumping operations, whenever the well shall be abandoned or the operation thereof discontinued. The maximum total liability under such bond for loss or damage, either to person or property, shall be in the amount of $50,000. Such bond shall be made for a term of not less than one year, and a new bond shall be furnished at the expiration of any existing one if the operation of such well covered thereby is continued. If at the time of such renewal all drilling on such well has been completed, the amount of total liability under such bond may be reduced to $25,000.

In lieu of filing a separate bond for each well, any applicant may file a blanket bond in the amount of $100,000 covering all wells drilled and operated by such applicant; provided, however, that an appropriate rider, executed by the principal and surety thereof, stating the location of any additional wells which shall be covered by such bond, shall be attached to and made a part of such bond prior to the filing of an application for a permit for a subsequent well to be covered by such bond.

In lieu of filing a bond in the above designated amounts, any applicant may file a bond as described above in the amount of $5,000, conditioned upon the applicant's compliance with the terms and conditions of this chapter, together with evidence that such applicant is covered by one or more public liability and property damage policies of insurance through one or more companies approved by the Commissioner of insurance of the state in the amounts of $250,000 — $500,000 for public liability and $200,000 for property damage.

In the case that any bond or policy of insurance required herein shall lapse or become void for any reason whatsoever, the permit issued under the terms of this chapter shall immediately become inoperative and void until a new bond or policy of insurance shall have been provided and filed with the City Clerk, or the existing bond or policy of insurance reinstated in full force, and such well and the drilling operations and production thereunder shall be shut down, suspended and discontinued until the filing of such new bond or policy of insurance, or proof of reinstatement thereof. Each bond and memorandum of insurance, both original and renewal, shall be approved by the City Attorney as to form and shall be filed with the City Clerk.

Sec. 21-7. Refund of portion of filing fee if permit not issued. [Ord. No. 455; Ord. No. 1069, 10-7-1992]

If no permit under this chapter is granted to an applicant therefor, $150 of the applicant's filing fee as established by a resolution adopted by City Council shall be refunded and the balance thereof shall be retained by the City.

Sec. 21-8. Void upon failure to commence operations within 60 days. [Ord. No. 455]

When a permit shall have been issued as provided by this chapter, the same shall terminate and become void and inoperative without any action on the part of the City, unless within 60

days from the date of the issuance thereof actual operations under such permit shall have been commenced.

Sec. 21-9. Copy to be forwarded to State Supervisor of Wells; copy to be posted. [Ord. No. 455]

A copy of each permit granted under the provisions of this chapter shall be forwarded by the City Clerk by certified mail to the Supervisor of Wells of the state, and a duplicate copy thereof shall be posted in the location of such well by the permittee.

Sec. 21-10. Transfer. [Ord. No. 455]

Should any permittee under the provisions of this chapter dispose of his or her interest to a new owner before drilling is commenced, while the well is being drilled, or after it has been completed, a request for transfer of such permit shall be submitted to the City Clerk. The request for transfer of a permit may be approved by the City Clerk and the transfer completed only if the request has been properly prepared including signatures by both the operator and the acquiring operator and when the acquiring operator has filed suitable surety bond as required for an original permit.

Sec. 21-11. Suspension and revocation. [Ord. No. 455]

Any permit issued under the provisions of this chapter for the operation of any well may be suspended by the City Clerk where any of the provisions of this chapter, or any amendments thereto, any statute of the state or any regulation promulgated by the Supervisor of Wells of the state is violated, which suspension shall be effective until such violations are corrected.

No such permit shall be revoked except after hearing before the Board of Appeals of the City following not less than 10 days' written notice to the permittee by the City Clerk, advising such permittee that such hearing will be held at a time and place fixed in such notice to determine whether the permit shall be revoked, and setting forth the reasons for revocation.

It shall be unlawful and an offense for any person to operate any well during any period in which the permit covering the operation of such well is so suspended or revoked.

The provisions of this section shall in no way limit or interfere with the enforcement of the penalties for the violation of any provisions of this code or ordinances generally, but shall be cumulative and in addition to such penalties.

Sec. 21-12. Minimum drilling unit and location of wells. [Ord. No. 455]

(a) Minimum drilling unit. The minimum drilling unit for any permittee to drill any well for the discovery of oil or gas within the City shall be established by the Supervisor of Wells of the state.

(b) Distance from adjoining property line or well. No permit shall be granted and no well shall be located unless the location be at least 330 feet from the nearest adjoining property line, unless such adjoining property shall be communitized with the property

constituting the drill site, and unless the location be at least 660 feet from each adjacent or adjoining well.

(c) Distance from street line, railroad, building, etc. The drilling location of any well shall in each instance be at least 330 feet from any street line, alleys or right-of-way line or the location of any building existent at the time of commencement of drilling.

(d) Location in street, alley, etc. No well shall be located within any of the streets, alleys or rights-of-way of the City, or so located as to block or hinder or obstruct the use of any street, alley or public right-of-way.

(e) Variances. In the event that it shall appear from the application on file, and after notice and hearing thereon is given as provided by this chapter, the Board of Appeals of the City may grant a variance from the limitations and restrictions set forth in Subsections (b) and (c) above.

Sec. 21-13. Production and operation requirements. [Ord. No. 455]

(a) Generally. In the drilling for oil and gas or other hydrocarbons and the production thereof, the permittee under the provisions of this chapter shall use every precaution, equipment and material in accordance with approved methods of operation, drilling and production to stop and prevent waste of oil, gas or other hydrocarbons and to protect residents and properties of the City, and shall equip and operate the well and all allied equipment therewith with equipment of standard design and quality as are in general use in the petroleum industry, and all such equipment shall be installed, maintained and inspected in accordance with standard drilling, producing and operating practices.

(b) Enclosure. From the time of placing any equipment, derricks, riggings or other drilling or pumping equipment or supplies on the drill site, each location of the well shall be completely surrounded by fencing in order to completely surround and enclose the drilling and pumping operation. Such fence shall be of woven wire of not less than 14 gauge with mesh of not more than four inches, shall be supported by steel posts and shall be at least six feet high. No person shall enter within such an enclosed well location unless authorized by the permittee or an agent of such permittee.

(c) Flares. All flares erected within the City shall be at least 300 feet from any building or structure, shall extend at least 20 feet above the surface of the ground, and shall be secured by guy wires.

(d) Slush pits, etc. In all cases where an oil and gas well is being drilled in a residentially zoned area, the drilling operator shall use a portable slush pit, and all slush and waste shall be deposited therein and from time to time removed beyond the corporate limits of the City for disposal. No open pits for the disposal of slush, brine or salt water shall be permitted at any time after the completion of the drilling operation in any area in the City.

(e) Water pollution control. All brine or salt water produced in the drilling for or production of oil shall, under the supervision of the Supervisor of Wells of the state, be returned to some underground formation or otherwise disposed of in order that such brine, salt water or refuse shall not do damage to any fresh water, wells, lakes, ponds or rivers.

(f) Cleanliness of drill site; storing machinery, etc., at site; oil tanks to be painted or galvanized. The persons in charge of the producing operations of a well shall keep the area within the fenced enclosure around such well free of all trash and inflammable substances not necessary in the operation of such well and shall keep the weeds cut and otherwise keep the location in a clean and orderly condition. Machinery and equipment not used in the operation of such well shall not be stored or left in such enclosure. The exterior surface of all oil tanks shall be either painted or galvanized.

(g) Commencing drill stem flow or swab testing restricted; tests required before bringing in well. It shall be unlawful to commence drill stem flow or swab testing of any well from sundown until sunrise or during any period when atmospheric conditions will not allow the ordinary dissipation of gas. Before bringing in a well, all of the control devices, including master gates and safety valves, shall be tested and shall be in good working order.

Sec. 21-14. Equipment and materials. [Ord. No. 455]

(a) Generally. All equipment and materials used in the drilling of wells for the discovery of oil, gas and hydrocarbons shall be modern and shall be kept in good working condition at all times. All drilling rigs shall be of the rotary type only to the production stage of such well, and thereafter cable-tool equipment may be used for swabbing, cleaning and completion of such well. All drilling rigs shall be anchored or secured in accordance with good drilling practices.

(b) Blow-out preventers. All drilling rigs or derricks shall be equipped with a blow-out preventer properly installed and tested before drilling into any formation likely to contain oil or gas. Such blow-out preventers shall be pressure tested prior to drilling operations and shall be tested periodically every eight hour working shift thereafter.

(c) When master-gate and lubricators required. When cable-tool equipment shall be used for completion of the well, it shall be equipped with master-gate, and the rig shall be equipped with lubricators while the well is being tested, swabbed or bailed. Such master-gate shall have a remote control located at least 20 feet from the well bore.

(d) Separators for wells producing both oil and gas; shutting down in event of accumulation of explosive gas mixture. Every well producing both oil and gas shall be equipped with or connected to a separator with a capacity sufficient to prevent the escape of oil through the vent line. Whenever an explosive mixture of gas shall accumulate around the well, the chief of the Fire Department of the City may require that the well be shut in until such mixture is dissipated.

(e) Oil storage tanks. All tanks for the storage of oil shall be placed in a pit and encircled by an embankment and fire wall of such size that the space between the tank and the embankment and fire wall shall have a volumetric capacity 1 1/2 times that of the tank. No such tank shall be located less than 330 feet from any building.

(f) Depth of pipe lines; permits for excavations under streets, etc.; construction of private pipe line for unmetered natural gas. All pipes or pipe lines leading to or from a well location shall be buried underground a minimum depth of 24 inches below the normal surface of the ground. No excavation or opening in or under any street, alley or public

place shall be made without first obtaining a permit as required by Section 32-5. No private pipe line for the transmission of unmetered natural gas shall be constructed without first obtaining the approval of such installation by the Superintendent of Utilities of the City.

(g) Well head connections for producing wells. All producing wells shall be properly equipped with well head connections designed for a minimum working pressure in excess of the pressure encountered in the producing formation and shall be designed for a minimum testing pressure of double the minimum working pressure.

(h) Pumping units and electrical switches and outlets. All pumping units installed shall be electrically operated and so enclosed as to exclude the public therefrom. All electrical switches and electrical outlets shall be enclosed and be explosion-proof.

Sec. 21-15. Abandonment of wells. [Ord. No. 455]

(a) Supervision of plugging, etc. Upon the discontinuance of the drilling operations or the production of any oil or gas from any working well, such well shall be abandoned and plugged under the supervision of the Supervisor of Wells of the state.

(b) When plugging to commence, etc. All plugging operations on all dry or abandoned wells shall commence within 30 days after drilling production operations shall have ceased and shall be carried through forthwith to completion.

(c) Filling pits and cellars, restoration of surface, removal of equipment, etc. Within 30 days after the plugging of any well, the permittee shall fill all pits and cellars with dirt and level off the surface and restore the same as nearly as possible to its condition prior to the commencement of drilling operations. All equipment shall be removed from the location promptly and all machinery, tanks, pipes and tools shall be transported from the well site and the embankments shall be leveled and the surface of the land restored to its former condition.

(d) Accumulation of slush, removal of debris, etc. The permittee shall not permit any undue accumulation of slush, salt water, oil or any other offensive or dangerous substances and upon the completion of the well shall remove and eliminate all debris and conditions contributing to the hazard of fire or water pollution.

Sec. 21-16. Violations declared nuisances. [Ord. No. 455]

Each violation of this chapter, whether or not denominated as unlawful or an offense, is hereby declared to be a public nuisance per se and may be abated by appropriate proceedings as provided by law.

Chapter 21A

OUTDOOR ASSEMBLIES

Sec. 21A-1. Findings of City Council.

Sec. 21A-2. Definitions.

Sec. 21A-3. License—required.

Sec. 21A-4. Application; fee.

Sec. 21A-5. Explanations and drawings of provisions for services.

Sec. 21A-6. Review of application by administrative officials; report to City Council.

Sec. 21A-7. Issuance or denial.

Sec. 21A-8. Contents; posting; nontransferable.

Sec. 21A-9. Revocation.

Sec. 21A-10. Requirements and standards.

Sec. 21A-11. Prohibited acts; penalty for violations.

Sec. 21A-1. Findings of City Council. [Ord. No. 585]

The City Council hereby finds and declares that the interests of the public health, safety, and welfare of the citizens of the City require the regulation, licensing and control of assemblages of large numbers of people in excess of those normally drawing upon the health, sanitation, fire, police, transportation, utility and other public services regularly provided in the City.

Sec. 21A-2. Definitions. [Ord. No. 585]

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

ATTENDANT — Any person who obtains admission to an outdoor assembly by the payment of money or by the rendering of services in lieu of the payment of money for admission.

LICENSEE — Any person to whom a license is issued pursuant to this chapter.

OUTDOOR ASSEMBLY — Any event attended by more than 500 attendants, all or any part of which includes a theatrical exhibition, public show, display, entertainment, amusement or other exhibition, including, but not limited to, musical festivals, rock festivals, peace festivals or similar gatherings, but does not mean:

(1) An event which is conducted or sponsored by a governmental unit or agency on publicly owned land or property, or an event sponsored by a bona fide educational institution.

(2) An event held entirely within the confines of a permanently enclosed structure.

PERSON — Any natural person, partnership, corporation, association or organization.

SPONSOR — Any person who organizes, promotes, conducts or causes to be conducted an outdoor assembly.

Sec. 21A-3. License—required. [Ord. No. 585]

A person shall not sponsor, operate, maintain, conduct or promote an outdoor assembly in the City unless he or she shall have first made application for, and obtained, as hereinafter prescribed, a license for each such assembly.

Sec. 21A-4. Application; fee. [Ord. No. 585; Ord. No. 1069, 10-7-1992]

Application for a license to conduct an outdoor assembly must be made in writing on such forms and in such manner as prescribed by the City Clerk and shall be made at least 60 days prior to the date of the proposed assembly. Each application shall be accompanied by a nonrefundable fee as established by a resolution adopted by City Council. Such application shall set forth the following:

(a) The name, age, residence and mailing address of the person making the application. (Where the person making the application is a partnership, corporation or other association, this information shall be provided for all partners, officers and directors, or members. Where the person is a corporation, a copy of the Articles of Incorporation shall be filed, and the names and addresses shall be provided of all shareholders having financial interest greater than $500.)

(b) A statement of the kind, character and type of proposed assembly.

(c) The address, legal description and proof of ownership of the site at which the proposed assembly is to be conducted. Where ownership is not vested in the prospective licensee, he or she shall submit an affidavit from the owner indicating his or her consent to the use of the site for the proposed assembly.

(d) The date or dates and hours during which the proposed assembly is to be conducted.

(e) An estimate of the maximum number of attendants expected at the assembly for each day it is conducted and a detailed explanation of the evidence of admission which will be used and of the sequential numbering or other method which will be used for accounting purposes.

Sec. 21A-5. Explanations and drawings of provisions for services. [Ord. No. 585]

Each application shall be accompanied by a detailed explanation, including drawings and diagrams where applicable, of the prospective licensee's plans to provide for the following:

(a) Police and fire protection.

(b) Food and water supply and facilities.

(c) Health and sanitation facilities.

(d) Medical facilities and services including emergency vehicles and equipment.

(e) Vehicle access and parking facilities.

(f) Camping and trailer facilities.

(g) Illumination facilities.

(h) Communications facilities.

(i) Noise control and abatement.

(j) Facilities for clean up and waste disposal.

(k) Insurance and bonding arrangements.

(l) Map or maps of the overall site of the proposed assembly.

Sec. 21A-6. Review of application by administrative officials; report to City Council. [Ord. No. 585]

On receipt by the City Clerk, copies of the application shall be forwarded to the Police Chief of the City, the Fire Chief of the City and such other public officials as the City Clerk deems necessary to fulfill the conditions and requirements of this chapter. Such officers and officials shall review and investigate all matters relevant to the application and within 20 days of receipt thereof shall report their findings and recommendations to the City Council.

Sec. 21A-7. Issuance or denial. [Ord. No. 585]

Within 30 days of the filing of the application, the City Council shall issue set conditions prerequisite to the issuance of, or deny, a license. Such conditions prerequisite shall be based only upon the express terms of this chapter. In any case where conditions are imposed as prerequisite to the issuance of a license, or where a license is denied, notice of such action must be mailed to the applicant, by certified mail, at least five days prior to such action, and in the event of a denial the reasons therefor shall be stated in the notice. The applicant shall have the right to appeal such action to the City Council and to be heard by the City Council at the next regular meeting of the City Council.

A license may be denied if the applicant fails to comply with any or all requirements of this chapter, or with any or all conditions imposed pursuant hereto, or with any other applicable provision of state or local law; or if the applicant has knowingly made a false, misleading or fraudulent statement in the application or in any supporting document.

Sec. 21A-8. Contents; posting; nontransferable. [Ord. No. 585]

A license shall specify the name and address of the licensee, the kind and location of the assembly, the maximum number of attendants permissible, the duration of the license and any other conditions imposed pursuant to this chapter. It shall be posted in a conspicuous place upon the premises of the assembly, and shall not be transferred to any other person or location.

Sec. 21A-9. Revocation. [Ord. No. 585]

The City Council may revoke a license whenever the licensee, his or her employee or agent fails, neglects or refuses to fully comply with any and all provisions and requirements set forth in this chapter or with any and all provisions, regulations, ordinances, statutes or other laws incorporated herein by reference.

Sec. 21A-10. Requirements and standards. [Ord. No, 585; amended 1-17-2018 by Ord. No. 1710]

In issuing a license pursuant to this chapter, the City Council shall require the following:

(a) Based upon the maximum number of persons proposed to be admitted to the public assembly per day, as disclosed by the application, if such number exceeds 499 persons and if the City Council, in its discretion, determines that the public safety and welfare make it desirable that police personnel be assigned to the vicinity of licensee's assembly, the licensee shall be obligated to reimburse the City for the actual expense in providing such police service to the extent of two officers for the first 500 persons and one additional officer for each additional 200 persons thereafter.

(b) The licensee shall provide potable water, sufficient in quantity and pressure to assure proper operation of all water-using facilities under conditions of peak demand. Such water shall be supplied from a public water system, if available, and if not available, then from a source constructed, located and approved in accordance with MCLA § 333.12701, and the rules and regulations adopted pursuant thereto, and in accordance with any other applicable state or local law, or from a source and delivered and stored in a manner approved by the Director of the Department of Community and Neighborhood Services of the City.

(c) The licensee shall provide separate enclosed flush-type water closets as defined in Act 266, Public Acts of 1929, and the rules and regulations adopted pursuant thereto and in accordance with any other applicable state or local law. If such flush-type facilities are not available, the Director of the Department of Community and Neighborhood Services of the City may permit the use of other facilities which are in compliance with MCLA § 333.12771, and the rules and regulations adopted pursuant thereto, and in accordance with any other applicable state or local law. The licensee shall provide lavatory and drinking water facilities constructed, installed and maintained in accordance with Act 266 of the Public Acts of 1929, and the rules and regulations adopted pursuant thereto, and in accordance with any other applicable state or local law. All lavatories shall be provided with hot and cold water, soap, and paper towels. The number and type of facilities required shall be determined, on the basis of the number of attendants, in the following manner:

Facilities	Male	Female	All Persons
Toilets	1:300	1:200	
Urinals	1:100		
Lavatories	1:200	1:200	
Drinking fountains			1:500
Taps or faucets			1:500

Where the assembly is to continue for more than 12 hours, the licensee shall provide shower facilities, on the basis of the number of attendants, in the following manner:

Facilities	Male	Female
Shower heads	1:100	1:100

All facilities shall be installed, connected, and maintained free from obstructions, leaks, and defects and shall at all times be in operable condition as determined by the Director of the Department of Community and Neighborhood Services.

(d) If food service is made available on the premises, it shall be delivered only through concessions licensed and operated in accordance with the provisions of Act 269, Public Acts of 1968, and the rules and regulations adopted pursuant thereto, and in accordance with any other applicable state or local law. If the assembly is distant from food service establishments open to the public, the licensee shall make such food services available on the premises as will adequately feed the attendants.

(e) If the assembly is not readily and quickly accessible to adequate existing medical facilities, the licensee shall be required to provide such facilities on the premises of the assembly. The kind, location, staff strength, medical and other supplies and equipment of such facilities shall be as prescribed by the Department of Community and Neighborhood Services of the City.

(f) The licensee shall provide for liquid waste disposal in accordance with all rules and regulations pertaining thereto established by the Department of Community and Neighborhood Services of the City. If such rules and regulations are not available or if they are inadequate, then liquid waste disposal shall be in accordance with the United States Public Health Service Publication No. 526, entitled "Manual of Septic Tank Practice." If liquid waste retention and disposal is dependent upon pumpers and haulers, they shall be licensed in accordance with Act 243, Public Acts of 1951, and the rules and regulations adopted pursuant thereto, and in accordance with any other applicable state or local law, and, prior to issuance of any license, the licensee shall provide the Department of Community and Neighborhood Services of the City with a true copy of an executed agreement in force and effect with a licensed pumper or hauler, which agreement will assure proper, effective, and frequent removal of liquid waste from the premises so as to neither create nor cause a nuisance or menace to the public health.

(g) The licensee shall provide for solid waste storage on, and removal from, the premises. Storage shall be in approved, covered, fly-tight and rodent-proof containers, provided in sufficient quantity to accommodate the number of attendants. Prior to issuance of any license, the licensee shall provide the Department of Community and Neighborhood Services of the City with a true copy of an executed agreement in force and effect with a licensed refuse collector, which agreement will assure proper, effective and frequent removal of solid waste from the premises so as to neither create nor cause a nuisance or menace to the public health. The licensee shall implement effective control measures to minimize the presence of rodents, flies, roaches and other vermin on the premises. Poisonous materials, such as insecticides or rodenticides, shall not be used in any way so as to contaminate food, equipment, or otherwise constitute a hazard to the public health. Solid waste containing food waste shall be stored so as to be inaccessible to vermin. The premises shall be kept in such condition as to prevent the harborage or feeding of vermin.

(h) The licensee shall provide or make available or accessible public bathing beaches only in accordance with Act 218, Public Acts of 1967, and the rules and regulations adopted pursuant thereto, and in accordance with any other applicable provision of state or local law.

(i) The licensee shall provide or make available public swimming pools only in accordance with Act 230, Public Acts of 1966, and the rules and regulations adopted pursuant thereto, and in accordance with any other applicable provision of state or local law.

(j) The licensee shall provide for ingress to and egress from the premises so as to insure the orderly flow of traffic onto and off the premises. Access to the premises shall be from a highway or road which is a part of the county system of highways or which is a highway maintained by the state. Traffic lanes and other space shall be provided, designated and kept open for access by ambulance, fire equipment, helicopter and other emergency vehicles. Prior to the issuance of a license, the City Police Chief must approve the licensee's plan for access and traffic control.

(k) The licensee shall provide a parking area sufficient to accommodate all motor vehicles, but in no case shall be provide less than one automobile space for every four attendants.

(l) A licensee who permits attendants to remain on the premises between the hours of 2:00 a.m. and 6:00 a.m. shall provide for camping and trailer parking and facilities in accordance with Act 171, Public Acts of 1970, and the rules and regulations adopted pursuant thereto, and in accordance with any other applicable provision by state or local law.

(m) The licensee shall provide electrical illumination of all occupied areas sufficient to insure the safety and comfort of all attendants. The licensee's lighting plan shall be approved by the City Manager.

(n) Before the issuance of a license, the licensee shall obtain public liability insurance with limits of not less than $100,000 and property damage insurance with a limit of not less than $25,000 from a company or companies approved by the Commissioner of Insurance of the state, which insurance shall insure liability for death or injury to persons or damage to property which may result from the conduct of the assembly or conduct incident thereto and which insurance shall remain in full force and effect in the specified amounts for the duration of the license. The evidence of insurance shall include an endorsement to the effect that the insurance company shall notify the City Clerk in writing at least 10 days before the expiration or cancellation of such insurance.

(o) Before the issuance of a license, the licensee shall obtain, from a corporate bonding company authorized to do business in Michigan, a corporate surety bond in the amount of $10,000 in a form to be approved by the City Attorney, conditioned upon the licensee's faithful compliance with all of the terms and provisions of this chapter and all applicable provisions of state or local law, and which shall indemnify the City, its agents, officers and employees and the City Council against any and all loss, injury or damage whatever arising out of or in any way connected with the assembly and which shall indemnify the owners of property adjoining the assembly site for any costs attributable to cleaning up and/or removing debris, trash or other waste resulting from the assembly.

(p) The licensee shall, at his or her own expense, take adequate steps, as determined by the City Fire Chief, to insure fire protection.

(q) The licensee shall erect a fence completely enclosing the site, of sufficient height and strength as will preclude persons in excess of the maximum permissible attendants from gaining access and which will have sufficient gates properly located so as to provide ready and safe ingress and egress.

(r) The licensee shall so conduct his or her activity that it shall not give rise to a nuisance by reasons of noise, vibrations, smoke, odor or dust.

(s) The licensee shall limit his or her activities to the hours specified in his or her license.

Sec. 21A-11. Prohibited acts; penalty for violations. [Ord. No. 585; amended 1-17-2018 by Ord. No. 1710]

(a) It shall be unlawful for a licensee, his or her employee or agent to knowingly:

(1) Advertise, promote or sell tickets to, conduct or operate an assembly without first obtaining a license as herein provided.

(2) Conduct or operate an assembly in such a manner as to create a public or private nuisance.

(3) Conduct or permit, within the assembly, any obscene display, exhibition, show, play, entertainment or amusement.

(4) Permit any person on the premises to cause or create a disturbance in, around or near the assembly by obscene or disorderly conduct.

(5) Permit any person to unlawfully consume, sell or possess intoxicating liquor while on the premises.

(6) Permit any person to unlawfully use, sell or possess any narcotics, narcotic drugs, drugs or other substances, as defined in Act 368, Public Acts of 1978, MCLA § 333.7101 et seq.

(b) Any of the above-enumerated violations is a separate offense, is a nuisance per se immediately enjoinable in the circuit courts, and, is punishable by imprisonment in the county jail for not more than 90 days or by a fine of not more than $100, or by both such fine and imprisonment.

(c) It is further provided that any of the above violations is a sufficient basis for revocation of the license and for the immediate enjoining in the circuit court of the assembly.

Chapter 22

PARKS AND PUBLIC PROPERTY

Sec. 22-1. Permission required for use of City parks.

Sec. 22-2. When parks are closed to public; signs; exception.

Sec. 22-3. Animals in public places; animals running at large; leash required.

Sec. 22-3.1. Violations and penalties.

Sec. 22-4. Firearms, etc.

Sec. 22-5. Mutilating, etc., public property; molesting etc., birds, animals, fish, etc.

Sec. 22-6. Enumeration of certain prohibited acts and conduct.

Sec. 22-7. Restricting smoking and the use of tobacco products in City parks.

Sec. 22-8. Obedience to signs prohibiting bicycle riding, skateboarding, roller skating and/or roller blading.

Sec. 22-9. Supervised, regulated, and managed animal control activity.

Sec. 22-10. Alcohol and liquor served in certain public facilities.

Sec. 22-11. City event signs.

Sec. 22-1. Permission required for use of City parks. [Code 1955, § 5-2.2; Ord. No. 1394, 7-21-2004]

The use of any public park for the expression of speech or other expressive conduct shall be subject to a facilities use policy ("policy") duly adopted and approved by the Holland City Council. The policy adopted by the Holland City Council shall not limit speech or other expressive conduct based upon its content.

Sec. 22-2. When parks are closed to public; signs; exception. [Ord. No. 432; amended 8-7-2013 by Ord. No. 1613; 11-16-2016 by Ord. No. 1680]

(a) All City parks and road ends shall be closed to the public between the hours of 11:00 p.m. and 6:00 a.m. The City Council may alter the hours that parks, specially designated recreation areas within parks or road ends are closed by resolution.

(b) No person shall enter or stay in any park, specially designated area of a park or road end when closed; provided, however, that the foregoing prohibition shall not apply to any person who enters any park or road end for the sole purpose of passing through such park and who proceeds through the same without loitering or undue delay. Appropriate signs stating this prohibition shall be erected at each park paved pedestrian or vehicle entrance and each road end prior to the effective date of this section or a resolution adopted pursuant to this section.

(c) Persons shall be allowed to be in parks or road ends when closed if they receive special prior written permission, typically provided through the use of facilities application process.

(d) For purposes of this section only, a "road end" is defined as i) a dead-end block of a public right-of-way; or ii) an out-lot owned by the City.

Sec. 22-3. Animals in public places; animals running at large; leash required. [Code 1955, § 5-2.3; amended Ord. No. 682; Ord. No. 1490, 1-23-2008; 12-7-2016 by Ord. No. 1681; 5-1-2019 by Ord. No. 1768]

(a) Eighth Street Market. No person shall permit or lead any animal, fowl, or reptile in the Eighth Street Market Place area during the hours that the Holland Farmers' Market is in operation. For purposes of this section, the Eighth Street Market Place area is that portion of the 8th Street right-of-way located between Pine Avenue on the east and Maple Avenue on the west in the City of Holland together with the area 100 feet north to 100 feet south of the 8th Street right-of-way. The City Manager shall issue a written order designating the hours of this prohibition, and signs shall be erected and maintained posting notice of this prohibition.

(b) Leashed animals in public parks. Persons shall be permitted to lead any animal, fowl, or reptile, if leashed, in public parks owned and maintained by the City except in the following designated parks:

(1) Matt Urban Sports and Recreation Complex.

(2) Maplewood Youth Complex.

(3) DeGraaf Nature Center.

(c) Areas animals are prohibited. No person shall permit or lead any animal, fowl, or reptile, whether leashed or not, on or in any area or facility open to the public where the City Manager has issued a written order designating the terms and hours of this prohibition and signs have been erected posting notice of this prohibition.

(d) Exception. The prohibitions imposed by this section shall not, however, apply to the use of service animals by persons with a disability, as defined in the Americans with Disabilities Act and regulations adopted thereunder.

Sec. 22-3.1. Violations and penalties. [Ord. No. 1496, 3-5-2008]

Any person who violates or fails to comply with the provisions of Section 22-3 or any of the subsections of this section is responsible for a Class I municipal civil infraction and subject to the civil fines set forth in the schedule of civil fines in Section 2-118 of this Code and any other relief that may be imposed by the court. Each act of violation and each day upon which such violation occurs shall constitute a separate violation.

Sec. 22-4. Firearms, etc. [Code 1955, § 5-2.4; Ord. No. 1378, 11-19-2003]

Unless that person is authorized to engage in an animal control activity authorized under Section 22-9 of the Ordinance Code of the City of Holland, no person shall carry in any public park any gun, BB gun, air rifle, rifle, shotgun, revolver, pistol or other firearm of any kind or description or any device which is capable of throwing or discharging an object with sufficient force to injure or kill humans or animals.

Sec. 22-5. Mutilating, etc., public property; molesting etc., birds, animals, fish, etc. [Code 1955, § 5-2.1]

No person shall destroy, mutilate or molest in any way any tree, shrub, flower, plant, equipment, structure or other public property located in, or remove any such items from, any public park, or any street or avenue adjacent to any public park; nor shall any person kill, destroy or molest any bird, animal or fish, or destroy or molest any bird's nest, within any public park; provided, however, that this section shall not prohibit fishing in the waters of Lake Macatawa or Black River.

Sec. 22-6. Enumeration of certain prohibited acts and conduct. [Code 1955, § 5-2-5]

No person shall use any threatening, obscene, profane or indecent language in any of the public parks of the City, or be guilty of any disorderly or indecent conduct therein; nor shall any person indulge in any game, act or demeanor tending to mar or disturb the enjoyment of any visitor in such parks; nor shall any person deposit any rubbish, refuse, papers or rags in such parks; except, that the same may be deposited in such wastebaskets or boxes as may be provided therefor; nor shall any person distribute, peddle or scatter any advertisement, circular, poster or handbill therein; nor, except under a licensed concession therein, shall any person peddle, sell or dispose of or offer for sale any of his or her wares in such parks or in or upon the sidewalks or streets adjacent thereto; nor shall any person use or dispose of any intoxicating liquors in any way whatsoever in such parks or upon the sidewalks and streets adjacent thereto.

Sec. 22-7. Restricting smoking and the use of tobacco products in City parks. [Ord. No. 1258, 8-4-1999]

(a) Definitions. As used in this section:

(1) SMOKING OR SMOKE — The carrying by a person of a lighted cigar, cigarette, pipe or other lighted smoking device.

(2) TOBACCO PRODUCT — A preparation of tobacco to be inhaled, chewed, sucked or placed in a person's mouth.

(b) Smoking and use of tobacco products limited to designated areas in public parks. A person shall not smoke or use tobacco products in the following public parks which are owned or operated by the City of Holland, except in such designated smoking areas as shall be determined by the City Manager, or his or her designee:

DeGraaf Nature Center
Holland Municipal Stadium
Lincoln Park
Maplewood Youth Complex
Matt Urban Sports and Recreation Complex
Moran Park
Paw Paw Park
Van Raalte Farm Park

(c) Signs. Signs shall be posted in the public parks listed in Subsection (b) of this section which state where smoking and the use of tobacco products in such parks is prohibited and where the designated smoking areas are located.

(d) Violations and penalties. A person who violates or fails to comply with this section shall be subject to any one or more of the following:

(1) Being asked to stop smoking or using the tobacco product;

(2) Being asked to leave the premises;

(3) Being responsible for a Class I municipal civil infraction and subject to the civil fines set forth in the schedule of civil fines in Section 2-118 of this Code and any other relief that may be imposed by the court. Each act of violation and each day upon which such violation occurs shall constitute a separate violation.

Sec. 22-8. Obedience to signs prohibiting bicycle riding, skateboarding, roller skating and/or roller blading. [Ord. No. 1363, 5-28-2003; amended 1-18-2018 by Ord. No. 1716]

When signs are erected or posted in any public park which prohibit a person from bicycling, skateboarding, roller skating, and/or roller blading or which limit any of these activities in a signed area, a person shall not disobey such signs. The signs shall be authorized in the manner provided by Section 18-17 of the Code. A person who violates or fails to comply with this section is responsible for a Class I municipal civil infraction and subject to the civil fines set forth in the schedule of civil fines in Section 2-118 of this Code and any other relief that may be imposed by the court. Each act or violation shall constitute a separate violation.

Sec. 22-9. Supervised, regulated, and managed animal control activity. [Ord. No. 1379, 11-19-2003]

To protect and enhance City property and welfare, the Department of Leisure and Cultural Services is authorized to promulgate rules and regulations for supervised, regulated, and managed animal control activity. Said rules and regulations shall be promulgated pursuant to Section 1-7 of this Code.

Sec. 22-10. Alcohol and liquor served in certain public facilities. [2-18-2004 by Ord. No. 1380; amended 3-2-2005 by Ord. No. 1408; 10-3-2007 by Ord. No. 1483; 7-16-2008 by Ord. No. 1511; 10-19-2011 by Ord. No. 1569; 7-2-2014 by Ord. No. 1631; 8-13-2014 by Ord. No. 1633; 5-20-2015 by Ord. No. 1648; 12-2-2015 by Ord. No. 1663; 4-20-2016 by Ord. No. 1666; 11-16-2016 by Ord. No. 1679; 7-11-2018 by Ord. No. 1740]

(a) Permit required.

(1) The sale, possession, and consumption of beer and wine is allowed at special events held at the following public facilities: the Holland Museum; the Cappon House; West Michigan Regional Airport; exterior and interior areas of the Civic Center Place; 8th Street Market Area; Windmill Island Gardens; DeGraaf Nature Center; Window-on-the-Waterfront; Matt Urban Sports Complex; and Van Raalte Farm, provided that the person conducting the event obtains a permit from the

City Manager prior to serving beer and wine for the event and complies with any licensing requirements (or qualifies for an exception to such requirements) imposed by the State of Michigan.

(2) The sale, possession, and consumption of alcoholic liquor is allowed at restaurants located on property owned by the City at Windmill Island and West Michigan Regional Airport, at sidewalk cafes, and at the Civic Center Place provided that the facility or event sponsor has a valid permit from the City Manager to serve alcoholic liquor and complies with any licensing requirements (or qualifies for an exception to such requirements) imposed by the State of Michigan.

(3) The sale, possession, and consumption of beer and wine may be allowed at such other locations owned by the City of Holland as may be approved on an events basis by the City Council of the City of Holland by a duly adopted resolution. The City Council shall not allow the sale, possession, and consumption of beer and wine at Kollen Park, Van Bragt Park, Smallenburg Park, Prospect Park, or Centennial Park.

(4) The City of Holland shall not act in the capacity of a sponsor or a server of beer, wine, and alcoholic liquor at any of the locations set forth in Section 22-10(a)(1) through (3) unless specifically authorized by the City Council for the event or location specified; provided that City Council approval is not required for events at the Civic Center Place. Any entity or licensee serving beer, wine, or alcoholic liquor on City property shall be required to provide evidence of financial responsibility insurance (Dram Shop) coverage naming the City of Holland, its officers, agents, and employees as additional insureds, and any employees serving on behalf of such entity shall be TIPS trained and shall provide evidence to the City of such training of its employees. All events must comply with the requirements of the Michigan Liquor Control Commission which may be applicable to the authorized event and location.

(b) Application for permit. In order to obtain a permit for the sale, possession and consumption of alcoholic liquor at the public facilities described in Subsection (a) of this section, the person conducting the event or operating the restaurant at the public facility shall pay the nonrefundable permit application fee established by resolution adopted by the City Council and shall submit an application to the City Clerk's office [except for private events on Windmill Island are governed by Subsection (l) and Private events at the Civic Center Place are governed by Subsection (m)], which shall include the following:

(1) The location, dates and times of the event;

(2) A certificate of insurance coverage (for amounts required under rules and regulations adopted by resolution of the City Council) listing the City and its officers, employees and agents and the facility operator as additional insureds and requiring notice to the City of any cancellation;

(3) Whether there will be a charge for the alcoholic liquor, whether it will be provided free of charge and whether there will be an admission charge;

(4) If the alcoholic liquor will be provided by a person that is licensed by the Michigan Liquor Control Commission, a copy of the license;

(5) If the alcoholic liquor will be provided by a person that is not licensed by the Michigan Liquor Control Commission, a complete description of the basis for exemption from the state licensing requirements;

(6) Written documentation from the facility manager for the public facility indicating that the facility has been reserved by the applicant for the event;

(7) If alcoholic liquor will be served or consumed outside, a description of the area where alcoholic liquor may be consumed at the event and how the applicant will restrict consumption to that area;

(8) Such additional information as may be required by the City Manager; and

(9) If the applicant must obtain a special license from the Liquor Control Commission or obtain special insurance to satisfy the requirements of this § 22-10, the application may be approved before the applicant obtains the license, but the City Manager shall not issue a permit until the applicant submits a copy of the license and certificate of insurance as required by this Subsection (b).

(c) Application forms. The City Clerk may adopt a form for the application. In such case, the applicant shall submit the application on the form as adopted by the City Clerk.

(d) Decision on application. The application shall be submitted at least 60 days in advance of when the permit is desired. The City Clerk shall promptly submit a copy of the application to the Chief of the Department of Public Safety and the Director of the Department of Community and Neighborhood Services for review and comments and to the City Manager for approval or denial. The City Manager may deny the requested permit if, based on information acquired by or submitted to the City Manager, the issuance of the permit is contrary to the public health, welfare and safety. An applicant may appeal the City Manager's decision to not issue a permit to the City Council by filing with the City Clerk a written request for a hearing before the City Council.

(e) General event requirements. Persons conducting an event or operating a restaurant permitted under this Section 22-10 shall comply with all requirements set forth in the rules then in effect as adopted by resolution of the City Council for serving alcohol at public facilities.

(f) Outside consumption. Alcoholic liquor shall not be consumed outside of the buildings at the public facilities described in Subsection (a) of this Section 22-10, and alcoholic liquor shall not be possessed in open containers or glasses outside of the buildings at these public facilities except a) if the permit provides for serving and consuming alcoholic liquor outside and b) only in compliance with rules then in effect as adopted by the City Council. The permit may contain additional conditions for serving and consuming alcoholic liquor outside. The applicant shall comply with all such conditions.

(g) Alcohol not provided by event sponsor. No alcoholic liquor shall be sold, possessed or consumed that is not provided by the event sponsor, the caterer engaged by the event sponsor or restaurant permitted under this section.

(h) Applicant's responsibility. The applicant shall not allow persons to consume or possess alcoholic liquor except as allowed in this section and shall at all times comply with any applicable Michigan statutes restricting the serving of alcoholic liquor. An applicant shall at all times comply with any statutory requirement to obtain a license from the Liquor Control Commission and shall not serve alcoholic liquor without complying with such licensing requirements. The issuance of a permit shall not be construed as authorization to serve alcoholic liquor without complying with such licensing requirements.

(i) Possession or consumption without permit prohibited. No person shall provide alcoholic liquor and no person shall possess or consume alcoholic liquor in or at the public facilities described in Subsection (a) except as allowed under this section.

(j) Duration of permit. A permit issued under this section for an event shall only be valid for the event and the dates described in the application. The permit issued under this section for a restaurant operated on property owned by the City at Windmill Island or the West Michigan Regional Airport shall be valid from the issuance date through the following April 30, unless renewed. A permit issued under this section to the Holland Historical Trust for private events to be held at the Holland Museum or the Cappon House shall be valid from the date of issuance through the following April 30, unless renewed. A renewal permit shall be valid from May 1 through the following April 30. The permit issued under this section for a sidewalk cafe shall be valid from the issuance date through the expiration date for the sidewalk cafe permit.

(k) Sidewalk cafes. A restaurant that is authorized to operate as a sidewalk cafe under Chapter 32 and which has a license issued by the Michigan Liquor Control Commission may sell and serve alcoholic liquor to its customers at the sidewalk cafe but only a) for consumption at the sidewalk cafe, b) to the extent allowed by its license from the Michigan Liquor Control Commission and c) if the person operating the sidewalk cafe has a permit issued under this section. Alcoholic liquor shall not be served at a sidewalk cafe on public property between 12:00 midnight and 11:00 a.m.

(l) Special events on Windmill Island. Notwithstanding Subsection (b), an application for a permit under this section and the required fee for private events to be held on Windmill Island shall be submitted to the Windmill Island Manager. The City Manager may delegate to the Windmill Island Manager the authority to approve and issue permits and to deny permits under this section for private events to be held on Windmill Island. The application shall be on forms adopted by the Windmill Island Manager. The applicant shall comply with all of the requirements of this section and the rules adopted by resolution of the City Council.

(m) Events at the Civic Center Place. Notwithstanding Subsection (b), events at the Civic Center Place shall not require a permit to sell or serve alcoholic liquor.

(1) Requests to serve alcoholic liquor at private events to be held at the Civic Center Place shall be submitted to the Civic Center Place Manager on forms adopted by the Civic Center Place Manager. The Civic Center Place Manager will determine whether to approve a request.

(2) So long as the City holds a license to sell and serve alcoholic liquor at the Civic Center Place, all such sales and serving shall be by the City or its authorized

agents in accordance with local ordinances and rules and state law and regulations.

(3) No requests to serve alcoholic liquor shall be approved for events at the Civic Center Place that involve youth, high school or NCAA sporting, recreational or leisure time events or rentals.

(n) Rules. The City Council may, by resolution, adopt rules that regulate the serving and consumption of alcoholic liquor at public facilities pursuant to permits issued under this section.

(o) Number of permits per year. The City Manager shall not issue more than 24 permits during a calendar year and not more than one organization per special event, as defined in the rules and resolution adopted by regulation of the City Council. The City Manager shall not issue more than one permit per day. Permits issued for private events on Windmill Island, permits issued to the Holland Historical Trust for private events and permits issued to restaurants or sidewalk cafes shall not be counted for purposes of this subsection.

(p) Violations. Violations of this section shall be deemed misdemeanors punishable as provided in Section 1-10.

Sec. 22-11. City event signs. [Ord. No. 1428, 10-19-2005]

The City, including all of its departments, the Main Street/Downtown Development Authority (the "DDA"), and the Downtown Principal Shopping District (the "PSD") are authorized to place a sign in a park or on public property for advertising or identifying an event of the City, the DDA, or the PSD upon administrative approval of the City Manager. The request shall include all information that is required by the City Manager. A request for approval of the sign shall be made to the City Manager at least 10 days before the event.

Chapter 23

PAWNBROKERS

Sec. 23-1. License required.
Sec. 23-2. Application.
Sec. 23-3. State law adopted.

Sec. 23-1. License required. [Code 1955, § 7-12.1]

No person shall hereafter carry on the business of pawnbroker in the City without having first obtained a license from the Mayor in the manner provided in Chapter 17 and in the statutes of the state pertaining to pawnbrokers.

Sec. 23-2. Application. [Code 1955, § 7-12.2]

Application for a license under this chapter shall be filed with the City Clerk on forms provided by him or her or her.

Sec. 23-3. State law adopted. [Code 1955, § 7-12.3]

All statutes of the state, and specifically Act 273 of the Public Acts of 1917,[1] relating to pawnbrokers, are hereby expressly incorporated into and made a part of this Code by reference, and no person shall violate any such law.

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1. Editor's Note: See MCLA § 446.201 et seq.

Chapter 24

PEDDLERS AND TRANSIENT MERCHANTS

ARTICLE I

Peddlers and Drummers

Sec. 24-1. Definitions.

Sec. 24-2. License for peddlers—required; registration of drummers; exceptions.

Sec. 24-3. Application.

Sec. 24-4. License specifications.

Sec. 24-5. Medical certificate for food vendors.

Sec. 24-6. Interfering with, etc., traffic; restrictions upon stopping vehicle; peddling for more than 10 minutes at one location; peddling at retail on certain streets prohibited.

Sec. 24-7. Continuing to peddle or drum after being requested to refrain by police officer.

Sec. 24-8. Loud, etc., noises prohibited.

Sec. 24-9. Weights and measures—examination and approval of devices.

Sec. 24-10. Inaccurate weights or measures.

Sec. 24-11. Sale of unsound, etc., food or defective merchandise.

Sec. 24-12. Penalties.

ARTICLE II

Tulip Time Transient Merchants

Sec. 24-13. Definitions.

Sec. 24-14. License—required; exceptions.

Sec. 24-15. Application.

Sec. 24-16. Fee.

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Sec. 24-18. Conditions of doing business.

Sec. 24-19. Enforcing officer.

Sec. 24-20. Violations and penalties.

ARTICLE I

Peddlers and Drummers

Sec. 24-1. Definitions. [Ord. No. 883]

For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

DRUMMER — Any person engaged in the business of taking orders or making contracts for the purchase of goods, wares or merchandise for future delivery or any person who shall employ a representative, agent or crew or representatives or agents to engage in such activity. The term "drummer" shall not include any person engaged in the business of selling at retail if done by prior appointment.

PEDDLER — A person over the age of 17 years engaged in the business of selling at retail any goods, wares, merchandise or services, or taking orders or making contracts for the purchase and immediate delivery thereof, except when such activity is conducted from a

fixed place on private property within the City. Peddling shall also include any person engaged in selling or exposing for sale any goods, wares, merchandise or any kind of property or thing from any cart, vehicle or other device upon the streets or public places of the City. The term "peddler" shall also include any person who shall employ a representative, agent or crew of representatives or agents to engage in such activity. The term "peddler" shall not include any person engaged in the business of selling at retail if done by prior appointment.

Sec. 24-2. License for peddlers—required; registration of drummers; exceptions. [Code 1955, § 7-5.1; Ord. No. 883]

(a) No person shall engage in peddling unless he or she has first secured a license to peddle from the City Clerk, in the manner provided in this article and in Chapter 17 of this Code. Any license issued to an agent or representative shall be valid and in effect only so long as the license of the employer remains in full force and effect.

(b) No person shall engage in drumming without first providing the City Clerk with the following information:

(1) The full name of the person taking orders or making contracts.

(2) Such person's permanent address, business address and local address.

(3) The full name and address of the person's employer and a general list of the types of goods, wares or merchandise to be delivered.

(4) The full name and address of the person who will supply the goods, wares or merchandise.

(c) Any physically handicapped peddler, any person offering for sale any products of his or her own farm or any person peddling for a religious organization, educational institution or nonprofit community service organization which receives the entire proceeds of sales made shall be exempted from the payment of fees for licenses issued under this article if he or she can establish the fact upon which he or she bases his or her claim of such exemption to the satisfaction of the City Clerk. Each such person shall submit an application for a license hereunder and shall be subject to all other provisions of this article as if such person had obtained a license and paid the fee required for the same.

(d) A peddler or drummer need not obtain a license or register with the City if the peddling or drumming is accessory or incidental to a business conducted at a fixed place within the City.

Sec. 24-3. Application. [Code 1955, § 7-5.2; Ord. No. 883]

The application for a license under this article shall contain, in addition to the information required by Chapter 17 of this Code, the following items, and any others that the City Clerk may require:

(a) The full name, permanent address, business address, local address and age and occupation of the applicant at the time of filing the application;

(b) If an agent's or representative's application, the name of the person, firm or corporation represented, together with the address of the central or district office;

(c) A list or general description of the articles or services to be sold or offered for sale;

(d) The length of time for which a license is desired;

(e) The proposed measure of sale, whether by weight, measure, package or otherwise;

(f) The proposed method of peddling or vending, whether on foot or by handcart, pushcart or other vehicle.

Sec. 24-4. License specifications. [Code 1955, § 7-5.5]

The regulations set forth in Sections 24-6 to 24-12 shall be either printed in full on the back of, or attached to, each license issued under this article, and each licensee shall comply with such regulations.

Sec. 24-5. Medical certificate for food vendors. [Code 1955, § 7-5.4; Ord. No. 883]

The Department of Community and Neighborhood Services may require an applicant who proposes to peddle anything to be used as food to submit to the Department of Community and Neighborhood Services for examination a medical certificate obtained from a physician who is licensed to practice medicine in the state, to the effect that the holder is free from all communicable disease and infectious disease in communicable form and is not a carrier of any such disease. If the Department of Community and Neighborhood Services requests such a certificate, no license shall be issued until the medical certificate has been submitted and is approved by the Department of Community and Neighborhood Services.

Sec. 24-6. Interfering with, etc., traffic; restrictions upon stopping vehicle; peddling for more than 10 minutes at one location; peddling at retail on certain streets prohibited. [Code 1955, § 7-5.5; Ord. No. 798; Ord. No. 883; 1-3-2018 by Ord. No. 1701]

(a) No licensee or drummer under this article using any cart, wagon, truck, automobile or other vehicle in peddling or drumming under the provisions of this article shall occupy the street or sidewalk in such manner as to interfere with or interrupt travel, or when stopping his or her vehicle upon the streets or public places in the City for the purpose of selling or offering for sale any goods, wares or merchandise, shall stop otherwise than parallel with and within one foot of the curbline. No peddler or drummer shall conduct his or her business in front of or next to any premises for a longer period of time than 10 minutes.

(b) No person shall engage in peddling or drumming at any time on the following streets:

(1) Seventh, Eighth and Ninth Streets between Van Raalte and Fairbanks Avenues, and the avenues or streets between those streets.

(2) Tenth and Twelfth Streets between Central and River Avenues.

(3) River and Central Avenues between Ninth and Twelfth Streets.

(c) In addition, no person shall engage in peddling or drumming during the week of Tulip Time on Van Raalte Avenue from Lake Macatawa to 28th Street.

(d) Notwithstanding the above, a licensed peddler who is contracted by the Holland Tulip Time Festival, Inc., may engage in peddling bottled water and pre-packaged snacks in the bleachers along Eighth Street and along Van Raalte Avenue during any event organized, coordinated, or administered by Tulip Time, and during the one hour before or after such event.

(e) For the purposes of this section, peddling and drumming shall not include the sale or distribution of newspapers or periodicals for immediate delivery by individual carriers or at established distribution sites or informational brochures or publications distributed by Holland Tulip Time Festival, Inc., as long as such publication predominately relates to the informational activities of Tulip Time.

Sec. 24-7. Continuing to peddle or drum after being requested to refrain by police officer. [Code 1955, § 7-5.5; Ord. No. 883]

No person shall continue to engage in peddling or drumming on any street, alley or public place in the City when requested by a police officer to refrain therefrom because of congested traffic conditions, evacuation, fire, police investigation, storm damage or other similar reason, when it is necessary to protect the health, welfare and safety of the persons of the City.

Sec. 24-8. Loud, etc., noises prohibited. [Code 1955, § 7-5.5; Ord. No. 883]

No person shall shout or call his or her wares in a loud, boisterous or indecent manner, or in such a manner as to disturb the public, nor shall any licensee or drummer under this article use any loud or harsh horn or bell or other noisemaking device to call attention to his or her wares or to his or her presence for the purpose of conducting the business or acts for which his or her license was granted.

Sec. 24-9. Weights and measures—examination and approval of devices. [Code 1955, § 7-5.5; Ord. No. 1246, 3-24-1999]

No person shall use any weighing or measuring device in the conduct of his or her business, or have in his or her possession any weighing or measuring device, unless such device shall have been examined and approved by the sealer of weights and measures.

Sec. 24-10. Inaccurate weights or measures. [Code 1955, § 7-5.5; Ord. No. 1246, 3-24-1999]

No person shall sell or offer for sale any article or commodity purporting to be in quantities of standard weight or measure, whether or not in original or other packages, unless the same shall be actually of the weight or measure purported.

Sec. 24-11. Sale of unsound, etc., food or defective merchandise. [Code 1955, § 7-5.5; Ord. No. 1246, 3-24-1999]

No person shall sell or offer for sale any unsound, unripe or unwholesome food, or defective, faulty, incomplete or deteriorated article or merchandise, unless the goods are so represented to prospective customers.

Sec. 24-12. Penalties. [Ord. No. 1246, 3-24-1999]

A person who violates or fails to comply with Section 24-8 of this article is responsible for a Class I municipal civil infraction and subject to the civil fines set forth in the schedule of civil fines in Section 2-118 of this Code and any other relief that may be imposed by the court. A person who violates or fails to comply with Sections 24-6, 24-9, 24-10 or 24-11 of this article is responsible for a Class II municipal civil infraction and subject to the civil fines set forth in the schedule of civil fines in Section 2-118 of this Code and any other relief that may be imposed by the court. Each act of violation and each day upon which said violation occurs shall constitute a separate violation.

ARTICLE II
Tulip Time Transient Merchants

Sec. 24-13. Definitions. [Code 1955, § 7-10.1; Ord. No. 687; Ord. No. 828; Ord. No. 1209, 3-18-1998]

For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

PERSON — Includes any person, firm, association, corporation, limited liability company, partnership or two or more persons having a joint or common interest.

TULIP TIME — Not only the official, designated days of the Tulip Time festival each year, but also the three days immediately before the commencement of the festival and the one day immediately after the conclusion of the festival.

TULIP TIME TRANSIENT MERCHANT — Any person engaging temporarily in the business of selling goods, wares, merchandise or services from or at a fixed place of business in the City during Tulip Time in any year. A person so engaged shall not be relieved from complying with the provisions of this article by temporarily associating with a local dealer, trader or merchant, or by temporarily conducting business in connection with, as part of, or in the name of a local dealer, trader or merchant.

Sec. 24-14. License—required; exceptions. [Code 1955, § 7-10.2; Ord. No. 428; Ord. No. 828; Ord. No. 1209, 3-18-1998; Ord. No. 1581, 3-7-2012]

(a) A person shall not engage in business as a Tulip Time transient merchant in the City of Holland during Tulip Time of any year without having first obtained a Tulip Time transient merchant license for each location where business is to be conducted. A Tulip Time transient merchant license shall be obtained under the provisions of this article and Chapter 17. A person, being a Tulip Time transient merchant, shall not peddle or

engage in business in any manner in which a license is required by Article I of this chapter, unless the person is also licensed in accordance with the requirements of that article.

(b) The provisions of this section shall not apply to a person who has a regularly established place of business within the City of Holland and who is on the City tax rolls.

(c) The provisions of this section shall not apply for any event organized, coordinated, or administered by Holland Tulip Time Festival, Inc., d/b/a Tulip Time, for which such organization is responsible for contracting with individual merchants involving the sale of nonfood items.

Sec. 24-15. Application. [Code 1955, § 7-10.4; Ord. No. 828; Ord. No. 1209, 3-18-1998]

Applications for a Tulip Time transient merchant license under the provisions of this article shall include, in addition to the information required by Chapter 17 and other information that the City Clerk may require, the following information:

(a) The full name and mailing address of the applicant at the time of the filing of the application.

(b) The full name and mailing address of the business or organization, if any, that will be engaged in business as a Tulip Time transient merchant.

(c) The period of time or the number of days during Tulip Time for which the license is requested.

(d) If the business of the applicant shall require the use of weighing or measuring devices, then the application shall be accompanied by a certificate from the sealer of weights and measures stating that such devices have been examined and approved.

(e) The full name of the owner of the property or the owner's agent and the property address of the location where the Tulip Time transient merchant shall conduct business.

(f) The application shall also be accompanied with the written permission of the owner or the owner's agent of the property where the Tulip Time transient merchant's business is to be located.

Sec. 24-16. Fee. [Code 1955, § 7-10.4; Ord. No. 828; Ord. No. 1069, 10-7-1992; Ord. No. 1209, 3-18-1998]

For each Tulip Time transient merchant license issued under the provisions of this article, the licensee shall pay the fee as established by a resolution adopted by City Council. A licensee who sells goods, wares, merchandise or services for a religious organization, educational institution or other nonprofit organization shall be exempt from the payment of a Tulip Time transient merchant license fee.

Sec. 24-17. Term. [Code 1955, § 7-10.6; Ord. No. 687; Ord. No. 828; Ord. No. 1209, 3-18-1998]

Each Tulip Time transient merchant license issued under this article shall be for all or a part of Tulip Time as requested in the application for the license.

Sec. 24-18. Conditions of doing business. [Code 1955, § 7-10.5; Ord. No. 828]

No licensee under the provisions of this article shall do or perform any of the following things or acts:

(a) Posting license. Fail to post the license issued under the terms of this article in a conspicuous location at the place where his or her business is conducted, where it shall remain in plain sight during the entire time during which such business is carried on.

(b) Zoning; public areas. Conduct his or her business in any zone district prohibited by Chapter 39 of this Code nor on any street right-of-way, including sidewalks, streets or curb areas.

(c) Building entrance or exit. Place or operate his or her business in the entrance or exit areas of any building so as to hinder ingress or egress.

(d) Compliance with Code, etc. Violate any provision of this Code or any state or federal law relating to the business in which he or she is engaged, or any regulation which is promulgated and operative under any such law.

Sec. 24-19. Enforcing officer. [Ord. No. 828]

The City Manager shall be the enforcing officer of this article or any City employee or officer designated by him or her.

Sec. 24-20. Violations and penalties. [Ord. No. 1209, 3-18-1998]

A person who violates a provision of this article is guilty of a misdemeanor punishable under Section 1-10 of this Code.

Chapter 25

(RESERVED)

[Former Chapter 25, Plumbing, adopted by Ord. No. 671, as amended, was repealed 1-17-2018 by Ord. No. 1717.]

Chapter 26

PUBLIC LODGING HOUSES AND RESIDENTIAL CARE FACILITIES

ARTICLE I
Public Lodging Houses

Sec. 26-1. Definition.
Sec. 26-2. License required.
Sec. 26-3. Inspections and approvals required.
Sec. 26-3.1. Suspended, revoked or expired licenses.
Sec. 26-4. Standards of maintenance.

ARTICLE II
Residential Care Facilities

Sec. 26-5. Procedure for establishment.
Sec. 26-6. Licensing.
Sec. 26-7. Fee; conditions of approval.

ARTICLE I
Public Lodging Houses

Sec. 26-1. Definition. [Code 1955, § 7-13.1; Ord. No. 1008, 10-17-1990; 4-18-2018 by Ord. No. 1737]

For the purposes of this chapter, every building or structure which is kept, used or maintained as an inn, hotel, bed-and-breakfast establishment, or motel where one or more rooms are made available to transients, shall be deemed to be a public lodging house. Regulations for short-term rental dwelling units can be found in Chapter 14.

Sec. 26-2. License required. [Code 1955, § 7-13.2; Ord. No. 1008, 10-17-1990]

No person shall keep, operate or maintain any public lodging house in the City without having first obtained a license therefor in accordance with the provisions of this chapter, Chapter 17 and Chapter 39.

Sec. 26-3. Inspections and approvals required. [Code 1955, § 7-13.4; Ord. No. 1008, 10-17-1990; amended 7-26-2016 by Ord. No. 1673]

No license shall be issued under this article until the premises to be licensed have been inspected and approved in writing by the Fire Chief as being in compliance with the then current code as adopted pursuant to Chapter 11, Fire Protection, of the Holland City Code and inspected and approved in writing by the Department of Community and Neighborhood Services. The Department of Community and Neighborhood Services shall determine that compliance with the provisions of Chapter 6, Buildings, Chapter 9, Electricity, Chapter 14, Housing, Chapter 19, Nuisances, Chapter 20, Offenses — Misc., Chapter 25, Plumbing, Chapter 26, Public Lodging, Chapter 27, Refuse and Garbage, and Chapter 39, Zoning, of this Code.

Sec. 26-3.1. Suspended, revoked or expired licenses. [Added 7-26-2016 by Ord. No. 1673]

If a license is suspended, revoked or expires without renewal, the licensee shall accept no new occupants, shall immediately notify all occupants of the suspension, revocation or expiration and shall arrange for all occupied hotel or motel rooms to be vacated as soon as possible (but in not more than 30 days) and remain vacated until the suspension ends or the license is reinstated or renewed. A suspension is effective when notice of the suspension is given to the licensee as provided in Section 1-6(a) through (c) of Chapter 1 of the Holland City Code. A revocation is effective when approved by Council.

Sec. 26-4. Standards of maintenance. [Code 1955, § 7-13.3; Ord. No. 1008, 10-17-1990; amended 7-26-2016 by Ord. No. 1673]

(a) No person shall keep or maintain any public lodging house in the City which does not comply with state law and the standards of safety and morals established by Chapter 6, Buildings, Chapter 9, Electricity, Chapter 11, Fire Protection, Chapter 14, Housing, Chapter 19, Nuisances, Chapter 20, Offenses — Misc., Chapter 25, Plumbing, Chapter 26, Public Lodging, Chapter 27, Refuse and Garbage, and Chapter 39, Zoning, of this Code.

(b) Following issuance of a license under this chapter, the licensed premises may be inspected by an enforcing officer at any time during the licensee's business hours without prior notice to the licensee; provided, however, that such inspections will not be conducted on more than an annual basis unless based on request by the licensee, a complaint or one of the provisions set forth below in this section.

(c) In the event that an inspection finds a violation of Chapter 6 Buildings, Chapter 9, Electricity, Chapter 11, Fire Protection; Chapter 14, Housing, Chapter 19, Nuisances, Chapter 20, Offenses — Misc., Chapter 25, Plumbing, Chapter 26, Public Lodging, Chapter 27, Refuse and Garbage, or Chapter 39, Zoning, of this Code the following action will be immediately taken:

(1) If one or more major violations are found, the enforcing officer shall immediately suspend the license by giving written notice to the license holder. The license shall remain suspended until each major violation is cured.

(2) If one or more minor violations are found, the enforcing officer will issue a written notice of violation. If the violation(s) is not cured within 30 days of the notice of violation(s), the enforcing officer may suspend the license. The license will remain suspended until each of the violations are cured.

(3) If three separate notices of violations (either major or minor) are issued to a licensee within a six-month period, the enforcing officer shall immediately suspend the license and notify the City Clerk of the notices of violation. The Clerk shall then arrange for a revocation hearing before the City Council.

(4) For the purposes of Subsections (c)(1), (2) and (3), the following definitions shall be used:

MAJOR VIOLATION — Any violation of the provisions of this article or any code adopted by the City, which poses a hazard or risk to the health and safety of the occupants of a lodging unit, including any violation that substantially affects the habitability of the lodging unit, such as lack of plumbing or mechanical or electrical systems, insect infestation, structural defect, conditions conducive to decay or deterioration, illegal cooking appliances, fire hazards and minor violations found in 20% or more of the sleeping rooms.

MINOR VIOLATION — Any violation of the provisions of this article or any code adopted by the City that is not deemed a major violation.

(d) In the event that there are three or more instances of prohibited conduct at a licensed premises during any six consecutive months, then the license shall be immediately suspended until the licensee adopts and submits to the Department of Community and Neighborhood Services and the Holland Department of Public Safety a written plan to reduce the prohibited conduct.

(1) For purposes of this Subsection (d), prohibited conduct shall mean:

a. Conduct that is a nuisance as defined in MCLA § 600.3801;

b. Unlawful possession of a controlled substance or drug paraphernalia; or

c. Unlawful possession or use of a weapon.

(2) The plan shall include, but not be limited to, maintaining a minimum of two on-site on-duty employees (not including housekeeping staff) with training on preventing prohibited conduct.

(3) The licensee's plan shall remain in effect until there are two or fewer instances of prohibited conduct during six consecutive months.

(4) If a plan is not received within 30 days, then the enforcing officer shall notify the City Clerk of the notices of the violation(s). The Clerk shall then arrange for a revocation hearing before the City Council.

(5) If a license is suspended on two separate occasions during any twelve-month period due to the amount of prohibited conduct, then the enforcing officer shall immediately suspend the license and notify the City Clerk of the violation. The Clerk shall then arrange for a revocation hearing before the City Council.

(e) A license may be suspended, revoked or not renewed for any reason authorized by Chapter 17, Licenses Generally.

(f) If a license remains suspended for 90 days or more, the enforcing officer shall notify the Clerk's office and the Clerk's office shall initiate proceedings before the City Council to revoke the license.

(g) Once a license is revoked under this section, the license will not be reinstated or renewed unless the licensee adopts and maintains a plan acceptable to the City Council to avoid future violations. At a minimum, the plan shall include engaging new management that has acceptable experience in operating a hotel or motel and

compliance with Subsection (d) of this Section 26-4. If a license is revoked a second time, the license will not be reinstated or renewed.

(h) The enforcing officer shall be as defined in Section 1-10.1 of this Holland City Code.

(i) Except as otherwise stated in this section, the procedure for issuing, renewing, suspending and revoking licenses shall be as set forth in Chapter 17, Licenses Generally.

ARTICLE II
Residential Care Facilities

Sec. 26-5. Procedure for establishment. [Ord. No. 636]

Any individual or organization desiring to establish an adult foster care facility or residential facility for the care, treatment or rehabilitation of persons with physical, mental or social-emotional disorders, as permitted by various sections of Chapter 39 of this Code, shall make application to the City Clerk for a license to establish and operate such residential facility. Such license shall be subject to the review of Council, which may seek the recommendation of City departments in its evaluation. Such license, if approved, shall authorize an individual or organization to establish residential care facilities as provided in Chapter 39, and in conformance with other chapters of this Code regulating residential occupancies.

Sec. 26-6. Licensing. [Ord. No. 636]

Prior to the establishment of a residential care facility, and annually thereafter concurrent with the licensing period of the City, any individual or organization seeking to establish and operate such a facility shall submit for Council's review a statement of goals and objectives. In its review, Council may seek letters of endorsement or certifications from governmental or social agencies having expertise in particular fields of human need to determine that methods, program, supervision and resources are adequate to protect the health, safety and welfare of the residents of such facility and the community at large. Upon satisfaction that such protection is or will be provided, a license shall be granted.

Sec. 26-7. Fee; conditions of approval. [Ord. No. 636; Ord. No. 1069, 10-7-1992]

There shall be a fee as established by a resolution adopted by City Council required for application for a residential care facility. Approval of such license shall allow an organization or individual to establish and operate such a facility, but shall not be construed as approval of a particular location. Criteria for the actual location for such facility shall comply with the provisions of Chapters 6, 14 and 39 applicable thereto, being the Building Code, Housing Codes, and Zoning Ordinance of the City.

Chapter 27

REFUSE AND GARBAGE

ARTICLE I
Refuse and Rubbish

Sec. 27-1. Definitions.

Sec. 27-2. Preparation of rubbish for disposal.

Sec. 27-3. Requirements for containers.

Sec. 27-4. Requirements for garbage disposal bags.

Sec. 27-5. Storage of refuse.

Sec. 27-6. Disposal of refuse generally—Residential collection only.

Sec. 27-7. Designated residential collection zones.

Sec. 27-8. Scavenging, etc.

Sec. 27-9. Location of rubbish disposal site.

Sec. 27-10. Rules and regulations—commercial refuse collection.

Sec. 27-11. Rubbish collection.

Sec. 27-12. Violation of chapter.

ARTICLE II
Recyclable Materials

Sec. 27-13. Mandatory recycling.

Sec. 27-14. Storage of recyclable material.

Sec. 27-15. Disposal of recyclable material—generally.

Sec. 27-16. Anti-scavenging.

Sec. 27-17. Disposal location of recyclable materials.

Sec. 27-18. Residential service collection charge; refuse and recyclable materials; resolution; failure to pay; lien upon property.

ARTICLE III
License of Commercial Refuse and Rubbish Haulers and the Designated Contract Hauler(s)

DIVISION 1
Commercial Refuse Collector's License

Sec. 27-19. Required.

Sec. 27-20. Application; procedure for licensing.

Sec. 27-21. Expiration; revocation.

DIVISION 2
Refuse and Recyclable Material Contractor(s)/Designated Contract Hauler(s)

Sec. 27-22. Designation as hauler required.

Sec. 27-23. Requirements.

DIVISION 3
Rubbish Collector's License

Sec. 27-24. Required.

Sec. 27-25. Application; procedure for licensing.

Sec. 27-26. Expiration; renewal.

ARTICLE IV
Composting and Yard Clippings

Sec. 27-27. Yard clippings in refuse/recycling containers prohibited; in solid waste prohibited; collection procedures.

Sec. 27-28. Composting prohibitions.

Sec. 27-29. Composting requirements.

Sec. 27-30. Master composters.

Sec. 27-31. Discontinuance of nuisance.
Sec. 27-32. Violations and penalties.
Sec. 27-33. Administrative searches; hindering.

ARTICLE I
Refuse and Rubbish

Sec. 27-1. Definitions. [Ord. No. 1034, 1-8-1992;[1] amended Ord. No. 1122, 9-21-1994; Ord. No. 1142, 3-15-1995; 10-17-2012 by Ord. No. 1593; 1-17-2018 by Ord. No. 1718]

For the purposes of this chapter, the following words and phrases shall, except as otherwise expressly provided, have the meanings respectively ascribed to them by this section:

ASHES — The residue resulting from the burning of wood, coal, coke, or other combustible material.

COMMERCIAL REFUSE HAULER — A hauler who is licensed by this chapter to pick up and dispose of refuse from all persons or entities except residential service users.

COMPOST — Includes, irrespective of any other provisions in this Code, typical residential yard clippings of leaves, grass, garden plants and waste, shrubbery, and similar natural plant materials; it may also include kitchen wastes, such as lettuce, cabbage, carrots, potatoes, apples, orange rinds, and other vegetable and fruit wastes that are normally considered refuse or garbage and that may be incorporated into a composting operation. Compost may include commercial decomposition additives.

COMPOSTER — A commercial or homemade container designed for decomposition of yard clippings and other compost.

COMPOSTING OPERATION — The process of decomposing compost and other yard clippings for the purpose of recycling compost into reusable soil additives.

DAY OF COLLECTION — The designated day established by this chapter for the collection of refuse, garbage, recyclable materials, or rubbish by the designated contract hauler(s) of the City in the designated residential collection zones of the City. Except as otherwise set forth in this chapter, the day of collection of yard clippings is the same day designated for the collection of refuse, garbage, and recyclable material.

DESIGNATED CONTRACT HAULER(S) — The person(s) or entity(ies) who contract with the City for the pickup and disposal of refuse, garbage, recyclable materials and yard clippings from all residential service users of the City in accordance with the terms of the contract.

DISPOSAL — In addition to its regular meaning, the term "disposal" shall include the storage, collection, and handling of refuse and recyclable materials and yard clippings.

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1. **Editor's Note: This ordinance also amended Ch. 27 in its entirety. Former Ch. 27 was adopted as part of the 1955 Code, as amended by Ord. No. 474; Ord. No. 487; Ord. No. 743; Ord. No. 744, Ord. No. 790; Ord. No. 851; Ord. No. 860; Ord. No. 894; Ord. No. 912, adopted 10-15-1986; Ord. No. 916, adopted 2-4-1987; Ord. No. 929, adopted 7-15-1987; Ord. No. 995, adopted 1-3-1990 and Ord. No. 1018, adopted 7-10-1991.**

ENFORCING OFFICER — The Director of the Department of Community and Neighborhood Services or his or her authorized representative.

FRONT YARD — The open, unoccupied space between the front line of the building, excluding steps and unenclosed porches, and the street line, and extending for the full width of the lot. On a corner lot, the narrowest lot dimension along a street line shall be deemed to be the front lot line.

GARBAGE — All animal and vegetable wastes resulting from the handling, preparation, cooking, or consumption of foods, or other putrescible wastes, but shall not include yard clippings as defined in this chapter.

MRF — A material recovery facility.

REAR YARD — A space unoccupied, except by an accessory building or use as permitted by Chapter 39 of this Code, extending for the full width of the lot, between any building other than a building or accessory use and the rear lot line.

REAR YARD COMPOSTING — A composting operation established in the rear yard of a residential lot within the City.

RECYCLABLE MATERIAL — Material that is commingled and/or presorted and designated to be separated from refuse prior to the collection of refuse and delivered to MRF which shall include but not be limited to:

(a) ALUMINUM MATERIALS — Cans and foil and such other aluminum products as shall be determined by the City.

(b) CORRUGATED CARDBOARD — Paper in which a portion has been made to have a wavy surface (alternating ridges and grooves) and is placed between two flat surfaces for the sake of strength, and that is commonly used to form cartons.

(c) GLASS — Bottles and jars, made of silica, sand, soda ash, and limestone being transparent or translucent, and used for packaging or bottling of various materials. This definition does not include plastics or glass products, such as window glass, blue glass, flat glass, mirrors, plate glass, safety glass, light bulbs, ceramics, or pieces of broken glass.

(d) HIGH-GRADE PAPER — Computer paper, tab cards, white letterhead, ledgers, and nonglossy copier paper.

(e) NEWSPAPERS — Newspaper-grade paper, the common, inexpensive, machine-finished paper made chiefly from wood pulp, which is printed and distributed. This definition does not include magazines, slick paper, and telephone books.

(f) PLASTICS — Colorless or colored plastic that is high-density polyethylene ("HDPE"), including plastic milk jugs and other plastic containers of HDPE material.

(g) TIN CANS — Steel and tin-coated cans.

(h) Such other recyclable materials that are designated for recycling, collection, and disposal by the City but which shall not include yard clippings as defined in this chapter.

REFUSE — All solid wastes, except bodily waste and recyclable materials, and such words shall include garbage, ashes, and rubbish.

RESIDENTIAL COLLECTION SERVICE — The service for collection and disposal of refuse, recyclable material and yard clippings provided by the schedule of the designated contract hauler(s) as administered through its (their) contract with the City.

RESIDENTIAL SERVICE USER — The owner, tenant, and/or occupant of a building or structure of four or fewer residential units. For each tenant-occupied residential unit, both owner and tenant shall be deemed to be residential service users.

RESIDENTIAL UNIT — That portion of a building or structure constructed, designed, or used for residential occupancy, including but not limited to portions of buildings or structures created for residential occupancy by the conversion of single- or multifamily residences.

RUBBISH — Includes, but is not limited to, glass, metal, paper, plant growth, wood or nonputrescible solid wastes, except to the extent that such material constitutes recyclable material as defined herein and further excepting yard clippings as defined in this chapter.

SOLID WASTE — Waste which may be disposed of in a Type II sanitary landfill pursuant to MCLA § 324.11501 or any future amendment to the State Solid Waste Code as amended, and any regulations, rules, or policies promulgated hereunder.

YARD CLIPPINGS — Leaves, grass clippings, vegetable or other garden debris, shrubbery, or brush or tree trimmings less than four feet in length and two inches in diameter, that can be converted to compost humus. This term does not include stumps, agricultural waste, animal waste, roots, sewage sludge, or garbage.

Sec. 27-2. Preparation of rubbish for disposal. [Ord. No. 1034, 1-8-1992]

Rubbish shall be prepared for disposal in the following manner:

(1) It shall be placed in a container suitable to prevent the creation of or existence of a nuisance; or

(2) It shall be cut and baled, tied, bundled, stacked or packaged so as not to exceed 36 inches in length and 50 pounds in weight if such rubbish is collected by a licensed rubbish collector, and stored or placed at least 12 inches off the ground.

Sec. 27-3. Requirements for containers. [Ord. No. 1034, 1-8-1992]

Containers for refuse shall comply with the following requirements:

(1) Refuse containers shall be made of durable, watertight, rust-resistant, rodent-resistant material having a close-fitting lid and handles to facilitate collection.

(2) Refuse containers for residential service users shall not be less than 10 gallons nor more than 32 gallons in capacity; provided, that larger refuse containers, not to exceed 90 gallons, shall be permitted if specifically designed to be mechanically unloaded into a refuse collection vehicle; provided, further, that all other requirements of this chapter are met.

(3) It shall be unlawful to permit the accumulation of a residue of liquids, solids, or a combination of such material on the bottom or sides of containers, it being the intention of this provision that the interior of containers shall be kept clean by thorough rinsing and draining as often as necessary.

(4) Refuse containers for multifamily residential, commercial, and industrial establishments and institutions shall comply with all provisions of this section except as related to size of containers.

(5) Containers shall be stored in the manner set forth in Subsection (b) of Section 27-5.

Sec. 27-4. Requirements for garbage disposal bags.

Garbage disposal bags shall comply with the following requirements:

(1) Bags must be made of high quality watertight material for the purpose of refuse collection.

(2) Bags shall be tied, fastened, or sealed in a secure manner for disposal on the day of collection.

(3) Bags utilized for disposal on the day of collection shall be free of holes or tears, and refuse shall be deposited in such a manner as not to exceed the holding and strength capacity of the bag.

Sec. 27-5. Storage of refuse. [Ord. No. 1034, 1-8-1992]

(a) Each person having refuse shall provide himself with approved refuse containers and shall place and keep all refuse therein, except as provided in Section 27-2 relating to rubbish. Storage of refuse in garbage disposal bags is expressly prohibited.

(b) Except on the designated day of collection, it shall be unlawful to store or place garbage, refuse, rubbish, or the containers or bags for its storage in the front yard of a residence, street, right-of-way, alley, stream, body of water, or any other public place, except on an approved landfill or disposal site. It shall further be unlawful to store or place refuse upon private property unless such refuse is placed in an approved container; except that rubbish may be stored as provided in Section 27-2.

(c) It shall be unlawful to store refuse or animal wastes on any premise if such refuse or animal wastes, by reason of odor, putrefaction, or attraction for insects or rodents, constitutes a nuisance.

(d) It shall be unlawful to store or place an appliance, including but not limited to, a refrigerator or freezer, on the exterior portion of any premises without removing the doors of the appliance.

Sec. 27-6. Disposal of refuse generally—Residential collection only. [Ord. No. 1034, 1-8-1992; amended Ord. No. 1093, 6-2-1993; Ord. No. 1142, 3-15-1995; Ord. No. 1276, 3-1-2000]

(a) Commencing at 6:00 p.m. prior to the designated day of collection applicable to a designated residential collection zone, a residential service user shall place garbage, refuse, or rubbish in the front yard or nontraveled portion of the right-of-way in approved containers or approved garbage disposal bags for pickup and collection; provided, however, that each residential service user who has contracted for rear yard pickup service shall place such garbage, refuse, and recyclable material within 75 feet of and plainly visible to the street or curb; and further provided, however, that rubbish, as defined herein, which is reasonably incapable of containerization because of its size or dimension may be placed in the front yard or untraveled portion of the right-of-way for collection.

(b) The owner, tenant, or occupant of a building or structure of four or fewer residential units located in an area of the City of Holland annexed to the City on or after December 31, 1999, shall be considered a residential service user as defined in Section 27-1 and shall comply with the requirements of this section and Section 27-7 by no later than six months following the date of annexation.

(c) The designated contract hauler(s) may enter upon the lands or premises of each residential service user as is reasonably necessary to collect and dispose of garbage, refuse, recyclable material, or rubbish as required by this chapter. Further, the designated contract hauler(s) shall, upon the disposal of garbage, refuse, recyclable material, or rubbish, secure the refuse/recyclable container and lid to prevent removal of the container or lid by the wind or the elements.

(d) Each person having refuse or recyclable material shall cause its final disposal as frequently as is necessary to prevent the creation of a nuisance. Such final disposal shall be in an approved landfill and shall be made only by a designated contract hauler(s) or by the person creating such refuse/recyclable material. Further, every residential service user shall provide a separate residential collection service for each residential unit which he/she owns, rents, or occupies, thereby providing a minimum of one residential collection service for each residential unit.

(e) No person shall set fire to or burn any refuse out-of-doors for disposal purposes; provided, however, that the Fire Department may sanction the burning or accumulations of brush, vegetation, construction materials, or similar waste in accordance with Chapter 11.

(f) No person shall set fire to or burn any refuse indoors unless such refuse is burned in an approved incinerator and in a manner which does not create a nuisance.

(g) It shall be unlawful for any person to willfully obstruct, resist, hinder, or oppose, or to aid or abet another to willfully obstruct, resist, hinder, or oppose, any employee of the City or of the City's designated contract hauler(s) when such employee is lawfully engaged in the collection and/or disposal of refuse or recyclable material pursuant to this section. A violation of this Subsection (g) shall be a misdemeanor.

Sec. 27-7. Designated residential collection zones. [Ord. No. 1034, 1-8-1992; amended Ord. No. 1093, 6-2-1993; Ord. No. 1142, 3-15-1995; Ord. No. 1426, 10-5-2005; 10-17-2012 by Ord. No. 1593]

(a) In order to protect the health, safety, and general welfare of the inhabitants of the City and to provide for the orderly collection and disposal of refuse, recyclable material and yard clippings, the designated contract hauler(s) shall provide for the collection, transportation and delivery of refuse, recyclable material and yard clippings, if yard clipping service is elected, from all residential services users, who shall have properly prepared for the pickup of said refuse, recyclable material and yard clippings, if yard clipping service is elected, on the day of collection in accordance with the terms of this chapter. The days of collection and the corresponding designated residential collection zones are as follows:

(1) Zone A - Monday: The boundaries of this zone shall be (running clockwise): the north side of 18th Street from Columbia Avenue to Ottawa Avenue; the east side of Ottawa Avenue (extended) to Lake Macatawa; the south sides of Lake Macatawa and Black Lake to the west side of Fairbanks Avenue (extended); the west side of Fairbanks Avenue to 20th Street, both sides of 20th Street, west to Columbia Avenue, the east side of Columbia Avenue north to 18th Street.

(2) Zone B - Tuesday: The boundaries of this zone shall be (running clockwise): the north side of 28th Street from Lincoln Avenue to Michigan Avenue; the west side of Michigan Avenue to 32nd Street; the north side of 32nd Street to Ottawa Avenue; the east side of Ottawa Avenue to 18th Street; the south side of 18th Street to Columbia Avenue; the west side of Columbia Avenue to 22nd Street; the south side of 22nd Street to Lincoln Avenue; the west side of Lincoln Avenue to the north side of 28th Street.

(3) Zone C - Wednesday: The boundaries of this zone shall be (running clockwise): both sides of 32nd Street from the east City limits to Lincoln Avenue; neither side of Lincoln Avenue to 28th Street; the east side of Lincoln Avenue to 22nd Street; the south side of 22nd Street (extended) to Fairbanks Avenue (extended); the east side of Fairbanks Avenue to the northern and east boundaries of the east City limits south to both sides of 32nd Street.

(4) Zone D - Thursday: The boundaries of this zone shall be (running clockwise): the west side of Ottawa Avenue to the south City limits; the south and west City limits and the east side of Old Orchard Road (extended) to Lake Macatawa; the south edge of Lake Macatawa to Ottawa Avenue (extended).

(5) Zone E - Friday: The boundaries of this zone shall be (running clockwise): the east and south City limits from 32nd Street to Ottawa Avenue; the east side of Ottawa Avenue to 32nd Street; the south side of 32nd Street to Michigan Avenue; the east side of Michigan Avenue to 28th Street; the south side of 28th Street to Lincoln Avenue; both sides of Lincoln Avenue to 32nd Street; neither side of 32nd Street to the east City limits.

(b) In the event a holiday or other event occurs preventing collection in the designated residential collection zone on the applicable day of collection, the collection of refuse and recyclable material and yard clippings shall occur on the next succeeding day.

(c) A violation of this section shall constitute a violation of the licensing provisions of this chapter permitting suspension or termination of a license pursuant to Chapter 17.

Sec. 27-8. Scavenging, etc. [Ord. No. 1034, 1-8-1992]

No person, other than the owner, tenant, or occupant of the premises on which refuse containers are stored, or his or her agent or employee, or a licensed refuse or rubbish collector, shall disturb any refuse container or remove its cover or any contents thereof or pick over any rubbish or remove any item therefrom; and no person shall cause any rubbish or refuse to be strewn or scattered on any public or private property.

Sec. 27-9. Location of rubbish disposal site. [Ord. No. 1034, 1-8-1992]

The enforcing officer shall designate where rubbish shall be dumped.

Sec. 27-10. Rules and regulations—commercial refuse collection. [Ord. No. 1034, 1-8-1992; amended 6-19-2019 by Ord. No. 1773]

(a) Trucks generally. Every commercial refuse collector shall provide such enclosed trucks as shall be necessary for the efficient collection of refuse in the City. Such trucks shall be so constructed and maintained so that they cannot leak or spill, and shall be approved by the enforcing officer.

(b) Cleanliness, sanitation, and parking of trucks. Every commercial refuse collector shall maintain all collection vehicles in a clean and sanitary condition, as free from offensive odors as possible. No commercial refuse collector shall park any such trucks upon any street, alley, or public place in the City, or upon any private premises longer than is reasonably necessary to collect the refuse from the premises within the close vicinity.

(c) Disposal of refuse. No refuse shall be disposed of by any commercial refuse collector except in the manner set forth in his or her license.

(d) Hours of collection.

(1) Commercial collection. No refuse shall be collected from commercial and industrial establishments except between the hours of 7:00 a.m. and 7:00 p.m. in those areas where residential structures are located within 700 feet of the commercial or industrial service user, except that refuse may be collected from commercial and industrial establishments between the hours of 5:00 a.m. and 7:00 p.m. in those areas zoned C-3 Central Business District.

(2) Residential collection. Refuse collection shall be permitted by the City and conducted by the designated contract hauler(s) in accordance with the contract agreement with the City. Refuse may be collected from residential establishments between the hours of 5:00 a.m. and 7:00 p.m. in areas zoned C-3 Central Business District.

(e) Improperly stored refuse. No refuse collector shall be required to collect any refuse unless the same is stored for collection in accordance with the provisions of this chapter.

(f) User of private drives. No refuse collector shall use a private residential driveway for purposes of refuse collection unless permission is obtained from the owner thereof.

Sec. 27-11. Rubbish collection. [Ord. No. 1034, 1-8-1992; amended 6-19-2019 by Ord. No. 1773]

(a) Disposal location. No licensed rubbish collector shall dispose of any rubbish except in the manner and at the place designated by the enforcing officer.

(b) Collection without license. No rubbish collector shall collect any refuse or garbage in the City unless he or she has a refuse collector's license as required by this chapter.

(c) Improperly stored rubbish. Rubbish collectors shall not be required to collect rubbish unless it is stored for collection in accordance with the provisions of this chapter.

(d) Hauling requirement; littering. No person shall haul rubbish on the streets of the City except in a covered truck, or in covered cans or containers, or in such manner that such rubbish cannot fall or be blown upon the streets.

(e) Hours of collection.

(1) Commercial collection. No rubbish shall be collected from commercial and industrial establishments except between the hours of 7:00 a.m. and 7:00 p.m. in those areas where residential structures are located within 700 feet of the commercial or industrial service user, except that rubbish may be collected from commercial and industrial establishments between the hours of 5:00 a.m. and 7:00 p.m. in those areas zoned C-3 Central Business District.

(2) Residential collection. No rubbish shall be collected from residential customers except on the day of collection between the hours of 7:00 a.m. and 7:00 p.m., except that rubbish may be collected from residential establishments between the hours of 5:00 a.m. and 7:00 p.m. in areas zoned C-3 Central Business District.

(f) Use of private drives. No licensee shall use a private residential driveway for purposes of rubbish collection unless permission is obtained from the owner thereof.

Sec. 27-12. Violation of chapter. [Ord. No. 1034, 1-8-1992; Ord. No. 1122, 9-21-1994]

(a) For purposes of this chapter, the occupant(s) of a residence shall be rebuttably presumed to be the owner of the refuse, garbage or rubbish for any enforcement activities or violations of this chapter.

(b) For purposes of this section, the owner of a multifamily residence shall be defined as the holder in fee of the premises or lesser estate thereof, a mortgagee or vendee in possession, assignee of rents, receiver, executor, personal representative, trustee, lessee or other person in control of a multifamily residence.

(c) Except at otherwise set forth in this chapter, each violation of any provision of this chapter is declared to be a civil infraction and is further declared to be a nuisance per se and subject to abatement as provided in this code and by state law.

(d) Upon failure of any person to store or dispose of garbage or refuse in the manner set forth in this chapter and when such improper storage or disposal creates or is likely to create nuisance by virtue of littering, odor, putrefaction, rodent or insect attraction, or broken or hazardous substances, the enforcing officer may take immediate steps to abate such nuisance. All costs thereof shall be recoverable in the manner set forth in Section 15.17 of the Charter of the City.

ARTICLE II
Recyclable Materials

Sec. 27-13. Mandatory recycling. [Ord. No. 1034, 1-8-1992; Ord. No. 1276, 3-1-2000]

Commencing on May 1, 1992, all residential service users shall separate recyclable materials from solid waste and dispose of the recyclable material for pick up in the designated residential collection zone in which the residential service users reside pursuant to Section 27-7 by a designated contract hauler(s). The owner, tenant, or occupant of a building or structure of four or fewer residential units located in an area of the City of Holland annexed to the City on or after December 31, 1999, shall be considered a residential service user as defined in Section 27-1 and shall comply with the requirements of this section and the other sections of Article II of Chapter 27 by no later than six months following the date of annexation.

Sec. 27-14. Storage of recyclable material. [Ord. No. 1034, 1-8-1992; Ord. No. 1093, 6-2-1993]

(a) Recyclable material shall be placed and stored in containers or garbage disposal bags provided by the City or a designated contract hauler(s).

(b) Storage of recyclable material in garbage disposal bags is prohibited if the method of storage results in rodent infestation or otherwise affects the general health, safety, and welfare of individuals and adjoining property.

(c) Except on the designated day of collection, it shall be unlawful to store or place recyclable material for its storage in the front yard of a residence, street, right-of-way, stream, body of water, or any other public place.

Sec. 27-15. Disposal of recyclable material—generally. [Ord. No. 1034, 1-8-1992; Ord. No. 1075, 12-16-1992]

(a) Commencing at 6:00 p.m. prior to the designated day of collection applicable to a designated residential collection zone, a residential service user may place recyclable material in the front yard or nontraveled portion of the right-of-way in approved containers or disposable bags.

(b) Paper recyclables shall be bundled separately and secured in such a manner as to prevent the recyclable material from being blown or scattered, and shall be maintained in a dry condition, free of any other substance.

(c) All other recyclable materials shall be rinsed and cleaned of all contents and shall be disposed of in one or more approved containers or disposal bags.

Sec. 27-16. Anti-scavenging. [Ord. No. 1034, 1-8-1992]

Recyclable material shall become the property of the designated contract hauler(s) of the City at the time the recyclable material is placed in the front yard for disposal. It shall be a violation of this article for any person other than a designated contract hauler(s) of the City to collect, remove, pick up, or cause to be collected, removed, or picked up, any such recyclable material.

Sec. 27-17. Disposal location of recyclable materials. [Ord. No. 1034, 1-8-1992]

All recyclable materials shall be disposed of in an MRF or such disposal facility as approved by the enforcing officer.

Sec. 27-18. Residential service collection charge; refuse and recyclable materials; resolution; failure to pay; lien upon property. [Ord. No. 1113, 6-1-1994; amended 10-17-2012 by Ord. No. 1593; 6-5-2013 by Ord. No. 1607]

(a) The City shall levy and collect a monthly charge for the collection of refuse and recyclable materials (including costs for containers and any other costs related to collection) from all residential service users of the City.

(b) The charge levied pursuant to this section shall be adopted pursuant to a duly adopted resolution of the City Council and published in the same manner as an ordinance pursuant to this Code prior to the effective date of adoption. The charge shall be billed at least quarterly and may be billed in advance.

(c) It shall be a violation of this Code for a residential service user to fail to pay the charges for the collection and disposal of refuse and recyclable materials levied and collected by the City.

(d) Except as otherwise provided or limited by state law, the charges levied pursuant to this section (including charges incurred on or since April 1, 1993) shall at once become a debt due to the City from the person(s) upon whom they are levied and from the owner(s) of the premises to which the services are provided. The amounts charged, together with all interest and collection costs, shall immediately become a lien upon the premises to which the services are provided, and the lien for such charges, interest, and costs shall continue until payment thereof.

(1) In a case when a tenant is responsible for the payment of the charges and the Department of Community and Neighborhood Services is so notified in writing, the notice to include a copy of the lease of the affected premises, if there is one, then the charges shall not become a lien against the premises after the date of the notice.

(2) All unpaid charges for refuse/recyclable services furnished to any such premises, which, on the 30th day of June of each year, have remained unpaid for a period

of six months, or more, shall be reported by the City Auditor to the Council at the first meeting thereof in the month of July. Except for property exempt from a lien under Subsection (d)(1) of this Section 27-18, the Council thereupon shall order the publication in a newspaper published in the City, of notice to all owners of property within the City that all unpaid refuse/recyclable charges which have remained unpaid for a period of six months or more prior to the 30th day of June, and which have not been paid by the 31st day of July, shall be assessed upon the City's tax roll against the premises to which the refuse/recyclable services, for which the unpaid charges accrued were supplied or furnished; and that such charges shall be collected in the same manner as the City taxes on said tax roll.

(3) Except for property exempt from a lien under Subsection (d)(1) of this Section 27-18, all such refuse/recyclable charges which remain unpaid on the 31st of July shall be transferred to the City's tax roll and assessed against the premises to which the refuse/recyclable service, for which the unpaid charges accrued, was supplied or furnished, and shall be collected with, and in the same manner as, City taxes. If the same have remained delinquent and unpaid after the expiration of the time limited in the treasurer's warranty for the collection of taxes levied in said tax roll, such charges shall be returned to the County Treasurer to be collected in the same manner as the lien created by City taxes on the delinquent tax roll of the City.

(e) In the event that any provision of this section shall prove to be incomplete or inadequate for the carrying out of the purposes thereof, the Council shall provide by ordinance such additional procedures as may be required for the collection of refuse/ recyclable charges, and, for such purpose, shall have all the powers granted to cities by MCLA § 141.101 et seq., as amended.

ARTICLE III
License of Commercial Refuse and Rubbish Haulers and the Designated Contract Hauler(s)

DIVISION 1
Commercial Refuse Collector's License

Sec. 27-19. Required. [Ord. No. 1034, 1-8-1992]

No person shall engage in the business of collecting or disposing of commercial refuse without first obtaining a license therefor in the manner provided in this chapter. No commercial refuse collector shall collect refuse from a residential service user unless the collector shall be the designated contract hauler of the City.

Sec. 27-20. Application; procedure for licensing. [Amended 1-17-2018 by Ord. No. 1718]

(a) No commercial refuse collector's license shall be issued except upon application to the City Clerk upon forms provided by him or her, stating, in addition to such other information as shall be required by the City Clerk, a statement of the trucks and

equipment which the licensee proposes to use for collecting refuse in the City including the following:

(1) The method and location of the disposal of refuse to be used by the commercial refuse collector;

(2) The method and equipment to be used in collecting in the City;

(b) The City Clerk shall submit any such application to the City Council for approval at its next regular meeting after submission, and the City Council shall approve the applications of such licensee as it shall deem best able to collect commercial refuse in the City in accordance with the best interest of the City and its inhabitants.

(c) Whenever any application made hereunder shall have been approved by the City Council, the City Clerk, upon payment of the fee by applicant and filing of a certificate of insurance in the amounts specified by resolution of the City Council, shall issue to such applicant a commercial refuse collector's license.

Sec. 27-21. Expiration; revocation. [Ord. No. 1034, 1-8-1992; Ord. No. 1064, 8-19-1992; Ord. No. 1074, 12-16-1992]

(a) Unless sooner revoked as hereinafter provided, every refuse collector's license shall expire on the 30th day of the next succeeding April following its issuance.

(b) Any refuse collector's license issued under this chapter may be revoked in the manner provided in Chapter 17 of this Code for the reasons stated therein and, in addition, such license may be revoked if any unauthorized change is made in the method or equipment and in the collection or the method or the location of disposal.

DIVISION 2

Refuse and Recyclable Material Contractor(s)/Designated Contract Hauler(s)

Sec. 27-22. Designation as hauler required. [Ord. No. 1034, 1-8-1992; amended 10-17-2012 by Ord. No. 1593]

(a) No person shall engage in the business of collecting or disposing of refuse or recyclable material in the City from residential service users unless such person is a designated contract hauler(s) who contracted with the City for the collection of refuse and recyclable material from residential service users.

(b) Except as set forth in Section 27-27, no person shall engage in the business of collecting or disposing of yard clippings in the City from residential service users unless such person is a designated contract hauler(s) who contracted with the City for the collection of yard clippings from residential service users.

Sec. 27-23. Requirements. [Ord. No. 1034, 1-8-1992; amended 10-17-2012 by Ord. No. 1593]

In addition to any requirements established by this chapter, the requirements for the collecting and disposing of refuse, recyclable materials and yard clippings from residential service users shall be incorporated and set forth in a contract executed by the City and the designated contract hauler(s).

DIVISION 3
Rubbish Collector's License

Sec. 27-24. Required. [Ord. No. 1034, 1-8-1992]

No person shall engage in the business of collecting or disposing rubbish without first obtaining a license therefor in the manner provided in this chapter.

Sec. 27-25. Application; procedure for licensing. [Ord. No. 1034, 1-8-1992]

A rubbish collector's license shall be applied for and issued in the same manner as refuse collector's licenses, as provided in this chapter. Applications for such licenses shall state the equipment proposed to be used. The City Council may approve the application of any person whom it shall deem to be properly equipped to collect rubbish in the City, in accordance with the best interest of the City and its inhabitants.

Sec. 27-26. Expiration; renewal. [Ord. No. 1034, 1-8-1992]

Rubbish collector's licenses shall terminate on the next succeeding April 30 and shall be obtained and renewed in the manner provided in Chapter 17 of this Code, shall be subject to the provisions of that chapter in all respects.

ARTICLE IV
Composting and Yard Clippings

Sec. 27-27. Yard clippings in refuse/recycling containers prohibited; in solid waste prohibited; collection procedures. [Ord. No. 1142, 3-15-1995; amended 10-17-2012 by Ord. No. 1593]

(a) It shall be unlawful to place any yard clippings in any refuse or recycle container within the City of Holland.

(b) It shall be unlawful to place any yard clippings in any solid waste for disposal.

(c) Commencing on January 1, 2013, residential services users may, but are not required to, leave yard clippings for collection. If yard clipping collection is elected, then the collection shall be done by the designated contract hauler(s) on the day of collection in the designated residential collection zone, or by a lawn service company contracted to provide other lawn services to the residential service user in addition to the collection

of yard clippings. Residential service users who are subject to an existing, multi-year contract for the collection of yard clippings, which will remain in effect for the 2013 season or the 2013 and 2014 seasons, shall be required to comply with the requirements of this subsection upon termination of that existing contract. Yard clippings shall only be left for collection if the following requirements are met:

(1) The yard clippings are stored, prepared and disposed of as provided in Sections 27-2 through 27-7 of Article I above;

(2) The yard clippings are separated from any refuse and recyclable materials;

(3) The yard clippings are collected by the designated contract hauler(s) or by a lawn service company as set forth in this Subsection (c) of Section 27-27; and

(4) The yard clippings are directed to a composting or other facility properly licensed to receive yard clippings for disposal or composting.

(d) Charges for the collection of yard clippings by the designated contract hauler(s) shall be in accordance with Section 27-18 of Article II.

Sec. 27-28. Composting prohibitions. [Ord. No. 1142, 3-15-1995]

(a) It shall be unlawful to place any meat, fish, milk product, bone, grease, fat, oil, or animal wastes or by-products in any compost, compost, or composting operation within the City of Holland.

(b) It shall be unlawful to have a composting operation on the front yard of any lot within the City.

Sec. 27-29. Composting requirements. [Ord. No. 1142, 3-15-1995]

A composting operation within the City of Holland shall be permissible only when:

(1) The composting operation is adequately and properly contained within a commercial composter or a homemade container which is approved by the Department of Community and Neighborhood Services; and

(2) The composting operation is maintained and operated in a manner which does not create a nuisance by reason of unsightliness, odor, or attraction of insects, rodents, or other pests; and

(3) The composting operation is located in the rear yard of a residential lot within the City.

Sec. 27-30. Master composters. [Ord. No. 1142, 3-15-1995]

The Director of the Department of Community and Neighborhood Services may designate as "master composters" any individuals determined by the Department of Community and Neighborhood Services to be appropriately qualified in the art of composting. Such master composters may be used by the Department of Community and Neighborhood Services to assist City residents in establishing appropriate composting operations and in educating City residents as to the benefits of composting.

Sec. 27-31. Discontinuance of nuisance. [Ord. No. 1142, 3-15-1995]

The owner(s), tenant(s), and occupant(s) of property upon which a composting operation is found by the Department of Community and Neighborhood Services to be a nuisance, shall immediately abate the nuisance as directed by the Department of Community and Neighborhood Services.

Sec. 27-32. Violations and penalties. [Ord. No. 1142, 3-15-1995; amended 1-17-2018 by Ord. No. 1718]

(a) Except as otherwise set forth in this article, each violation of any provision of this article shall be a Class I Municipal Civil Infraction and subject to the civil fines set forth in the schedule of fines in Section 2-118 of this Code and any other relief that may be imposed by the Court.

(b) Each such violation (whether a first, second, third, or later violation) shall also constitute a nuisance per se and shall be subject to abatement pursuant to the nuisance provisions of this Code and state law.

(c) A person who, without good cause, fails to pay the fine and costs as set forth in Subsection (a) above shall be deemed guilty of a misdemeanor.

Sec. 27-33. Administrative searches; hindering. [Ord. No. 1142, 3-15-1995]

(a) It shall be lawful for the Director of the Department of Community and Neighborhood Services, or any employee thereof, who has reasonable cause to believe that a composting operation exists upon any property within the City of Holland, to enter said property to determine whether such composting operation exists and whether it is in compliance with this article, and to take such action as is necessary to bring such composting operation into compliance with this article.

(b) It shall be unlawful for any person to willfully obstruct, resist, hinder, or oppose, or to aid or abet another to willfully obstruct, resist, hinder, or oppose, any employee of the City or any master composter when such person is lawfully engaged in the inspection of composting operations pursuant to this article.

Chapter 28

(RESERVED)

[Former Ch. 28, which pertained to service stations, adopted as §§ 2-7.3 through 2-7.6 of the 1955 Code, as amended by Ord. No. 526, was repealed 2-7-1990 by Ord. No. 1000.]

Chapter 29

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ARTICLE I
In General

Sec. 29-1. Rules applying to text. [Ord. No. 1323, 12-5-2001;[1] Ord. No. 1516, 9-3-2008]

The following rules of construction shall apply to the text of this chapter.

(a) The particular shall control the general.

(b) Except with respect to the definitions which follow in Section 29-3, the headings which title a chapter, section or subsection are for convenience only and are not to be considered in any construction or interpretation of this chapter or as enlarging or restricting the terms and provisions of this chapter in any respect.

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1. **Editor's Note: This ordinance also amended and reinstated Ch. 29 in its entirety. Former Ch. 29 was adopted 5-3-1995 by Ord. No. 1143, as amended 5-1-1996 by Ord. No. 1170; 3-24-1999 by Ord. No. 1247; 10-3-2001 by Ord. No. 1317; and 11-7-2001 by Ord. No. 1322.**

(c) The word "shall" is always mandatory and not discretionary. The word "may" is permissive.

(d) Unless the context clearly indicates to the contrary:

(1) Words used in the present tense shall include the future tense;

(2) Words used in the singular number shall include the plural number; and

(3) Words used in the plural number shall include the singular number.

(e) Words imparting masculine gender shall apply to feminine and also to firms, companies, associations, partnerships, joint ventures, corporations, joint stock companies, trusts, estates, governmental entities and any other legal entities or any combination thereof.

Sec. 29-2. Abbreviations. [Ord. No. 1323, 12-5-2001; Ord. No. 1516, 9-3-2008; amended 12-4-2019 by Ord. No. 1776]

The following abbreviations shall have the designated meanings:

ASTM - American Society for Testing and Materials.
BOD - Biochemical Oxygen Demand.
CFR - Code of Federal Regulations.
COD - Chemical Oxygen Demand.
U.S. EPA - United States Environmental Protection Agency.
l - Liter.
mg - Milligrams.
mg/l - Milligrams per liter.
NIOSH - National Institute for Occupational Safety and Health
NPDES - National Pollutant Discharge Elimination System.
POTW - Publicly Owned Treatment Works.
SIC - Standard Industrial Classification.
SWDA - Solid Waste Disposal Act, 42 U.S.C. 6901 et. seq.
TSS - Total Suspended Solids.
USC - United States Code.
WEF - Water Environment Federation.

Sec. 29-3. Definitions. [Ord. No. 1323, 12-5-2001; Ord. No. 1516, 9-3-2008; amended 12-4-2019 by Ord. No. 1776]

For the purpose of their use in this chapter, the following terms and phrases are hereinafter defined. Any word or phrase not defined herein shall be considered to be defined in accordance with its common or standard definition.

40 CFR PART 403 — The general pretreatment regulations outlined at 40 Code of Federal Regulations Part 403.

ACT 368 — The Michigan Public Health Code (Act 368 of 1978) MCLA §§ 333.1101 to 333.25211.

ACT or THE ACT — The Federal Water Pollution Control Act, as amended by the Clean Water Act and the Water Quality Act of 1987, 33 U.S.C. § 1251 et. seq.

ADMINISTRATIVE COMMITTEE — The committee established pursuant to the "contract."

AUTHORIZED REPRESENTATIVE OF INDUSTRIAL USER —

(a) In the case of a corporation, a president, secretary, treasurer or vice president of the corporation in charge of a principal business function;

(b) In the case of a partnership or proprietorship, a general partner or proprietor; and

(c) An authorized representative of the individual designated above if:

(1) Such representative is responsible for the overall operation of the facilities from which the discharge into the POTW originates;

(2) The authorization is in writing; and

(3) The written authorization is submitted to the control authority.

BEST MANAGEMENT PRACTICES (BMPs) — Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in Section 29-49 of this chapter. BMPs include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

BOD (DENOTING BIOCHEMICAL OXYGEN DEMAND) — The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures in five days at 20° C. (without addition of nitrification inhibitors).

BTEX — The sum of the concentration of benzene, toluene, ethylbenzene and xylene.

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.

BUILDING SEWER — The extension of the building drain which begins five feet outside the inner face of the building wall and continues to the sanitary sewer or other place of disposal.

BYPASS — The intentional diversion of waste streams from any portion of an industrial user's treatment facility as outlined in 40 CFR 403.17.

CESSPOOL — An underground pit into which household sewage or other untreated liquid waste is discharged and from which the liquid seeps into the surrounding soil or is otherwise removed.

CITY — The City of Holland, acting by and through its Holland Board of Public Works unless the context of the term refers to the City of Holland as a separate entity.

COD (DENOTING CHEMICAL OXYGEN DEMAND) — The amount of oxygen required to chemically oxidize organic and inorganic constituents of wastewater as measured under standard laboratory procedures.

COD/BOD RATIO — The ratio of COD to BOD in the plant influent calculated using the average COD and BOD data as found on the state plant influent sheet.

COMBINED WASTE STREAM — The waste stream at industrial facilities where effluent from one regulated process is mixed, prior to treatment, with wastewaters other than those generated by that regulated process. Where required by federal or state law, the combined waste stream formula provided in 40 CFR Part 403 will apply to limits applicable to a combined waste stream.

COMPOSITE SAMPLE — A series of representative samples taken over a specific time period which are then combined into one sample for testing purposes.

CONTRACT — The 2017 Restated Holland Area Wastewater Treatment Facilities Operation Contract with an effective date of July 1, 2017, or any subsequent amendment made thereto.

CONTROL AUTHORITY — The City of Holland, acting through its Holland Board of Public Works or its authorized representatives.

DAILY MAXIMUM CONCENTRATION — The maximum concentration of a pollutant in any individual sample during that day.

DAILY MINIMUM CONCENTRATION — The minimum concentration of a pollutant in any individual sample during that day.

DEBT RETIREMENT CHARGE — The charge levied to users for retirement of bonded indebtedness for the POTW.

DENTAL AMALGAM — A mixture of mercury and other metals used as a dental restorative material.

DISCHARGE — Includes, but is not limited to, any spilling, leaking, pumping, pouring, emitting, emptying, or dumping.

DOMESTIC USER — All users of the POTW where the discharge into the system is primarily domestic waste.

DOMESTIC WASTE — A water-carried waste from, but not limited to, toilet, kitchen, laundry, bathing, or other facilities used for household purposes.

EGLE — The Michigan Department of Environment, Great Lakes and Energy or any successor governmental agency having similar regulatory jurisdiction.

ENFORCING OFFICER — The General Manager of the Holland Board of Public Works, or an authorized deputy, agent, or representative, unless stated differently in this section.

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

HBPW — The Holland Board of Public Works of the City of Holland, its authorized deputy, agent, or representative.

INDUSTRIAL PROCESS — Those processes which generate the types of wastes as enumerated in Section 29-49.

INDUSTRIAL USER (IU) — Any person who introduces pollutants into a POTW from any nondomestic source regulated under the Act, state law, or local ordinance.

INDUSTRIAL WASTE — The liquid or liquid borne waste from industrial or manufacturing processes, trade or business as distinct from domestic waste.

INSTANTANEOUS LIMIT — The maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.

INTERCEPTOR DEVICE — A device, including, but not limited to, grease traps, sand traps, oil separators, etc., designed and installed so as to separate and retain deleterious, hazardous, or undesirable matter from normal wastes and permit normal sewage or wastewater to discharge into the disposal terminal by gravity. In case of acid or caustic wastes, an interceptor is a device in which the wastes are neutralized prior to their discharge into the solid or waste system of the premises, the building drain, the building sewer, private sewer, or public sewer.

INTERFERENCE — Any discharge which alone or in conjunction with a discharge or discharges from other sources, both:

(a) Inhibits or disrupts the POTW and any of its process or operations, or its sludge use or disposal; and

(b) Therefore is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal.

MICHIGAN ADMINISTRATIVE CODE — The compilation of all adopted rules and regulations that are in effect in the State of Michigan.

MINOR INDUSTRIAL USER (MIU) — A nondomestic user designated as such by the control authority, which the control authority has determined does not meet the definition of a significant industrial user. The control authority may issue a Minor Industrial User a Wastewater Discharge Permit and require the user to conduct periodic monitoring and reporting, as deemed appropriate.

MONTHLY AVERAGE CONCENTRATION — The sum of the concentrations of the subject pollutant in all of the individual samples divided by the number of samples analyzed for that pollutant during a calendar month. If the pollutant concentration in any sample is less than the limit of detection, regard that value as zero when calculating monthly average concentration.

NATIONAL CATEGORICAL PRETREATMENT STANDARD or CATEGORICAL PRETREATMENT STANDARD — Any regulation containing Pollutant discharge limits promulgated by the EPA in accordance with Section 307(b) and (c) of the Act (33 U.S.C. § 1317), which applies to a specific category of industrial users.

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

NEW SOURCE — Any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under Section 307(c) of the Act (33 U.S.C. § 1317) which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:

(a) The building, structure, facility or installation is constructed at a site at which no other source is located; or

(b) The building, structure, facility or installation totally replaces the process or production equipment that caused the discharge of pollutants at an existing source; or

(c) The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing facility, and the extent to which the new facility is engaged in the same general type of activity as the existing source should be considered; or

(d) As defined in 40 CFR 403.3(m)(2) and (m)(3).

NONDOMESTIC USER — Any user, including significant industrial users, of the POTW that discharges wastes other than or in addition to water-carried domestic wastes.

NONDOMESTIC WASTE — All water-carried wastes other than domestic wastes.

NPDES or STATE DISCHARGE PERMIT — A permit issued pursuant to Section 402 of the Federal Water Pollution Control Act (33 U.S.C. § 1342).

NUISANCE — Any condition or circumstance defined as a nuisance pursuant to Michigan Statute, at common law or in equity jurisprudence which includes, but is not limited to, any condition where sewage, industrial waste, or the effluent from any sewage disposal facility or toilet device is exposed to the surface of the ground or is permitted to drain on or to the surface of the ground into any ditch, storm sewer, lake or streams, or when the odor, appearance, or presence of this material has an obnoxious or detrimental effect on or to the senses or health of persons, or when it shall obstruct the comfortable use or sale of adjacent property, except as otherwise permitted.

OPERATION MAINTENANCE AND REPLACEMENT — All work and activities, including, but not limited to, engineering, contract preparation, purchasing, repair, supervision, recruitment, training, expediting, inspection, accounting, testing, protection, operating management, and maintenance necessary to provide adequate wastewater treatment and/or collection and/or disposal of treatment residues on a continuing basis to conform with all applicable federal, state, and local wastewater management requirements and to ensure optimum long-term management of the complete wastewater treatment system.

PASS-THROUGH — A discharge which exits the POTW into waters of the state in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, causes a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation).

PERSON — Any individual, partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agent or assigns.

pH — The logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in moles per liter of solution.

PLANT — The Holland Area Water Reclamation Facility, as improved and enlarged pursuant to the contract dated as of February 1, 1978, between Ottawa County, Park Township, Holland Township, and Holland City; a contract dated as of June 13, 1978, between Allegan County, Fillmore Township, Laketown Township, and Holland City; a contract dated as of June 1, 1994, between Ottawa County, Holland City, Holland Township, Park Township, Laketown Township, Fillmore Township, and Zeeland Township; the First Amendment to the Restated Holland Area Waste Water Treatment Facilities Operations Contract dated as of December 23, 2014, between Ottawa County, Holland City, Holland Township, Park Township, Laketown Township, Fillmore Township, and Zeeland Township, and the 2017 Restated Holland Area Wastewater Facilities Operations Contract, or as subsequently expanded or enlarged.

POINT SOURCE — Any discernible confined and discrete conveyance or vessel from which pollutants are or may be discharged into a public waterway or public sewer system.

POLLUTANT — Any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt and industrial, municipal, commercial, and agricultural waste or any other contaminant.

PRETREATMENT or TREATMENT — The reduction, elimination, or alteration of pollutant properties to a less harmful state prior to or in lieu of discharge or introduction into a POTW. This can be accomplished by physical, chemical or biological processes, process changes, or other means, except as prohibited by 40 CFR 403.6(d).

PRETREATMENT STANDARD or STANDARD — Any local, state or federal regulation containing pollutant discharge limits. This term includes local limits, prohibitive discharge limits including those promulgated under 40 CFR 403.5, and categorical pretreatment standards.

PUBLIC SEWER — A sewer which is owned and/or controlled by any governmental entity which is a participant in the plant.

PUBLICLY OWNED TREATMENT WORKS (POTW) — The treatment works as defined by Section 212 of the Act (33 U.S.C. § 1292), including any devices and systems used in the monitoring, testing, storage, treatment, recycling, and reclamation of municipal sewage and industrial waste which are connected to or part of the Holland Area Water Reclamation Facility. The systems include sewers, pipes, and equipment used to convey wastewater to the treatment facility. The term also includes the municipality as defined in Section 502(4) of the Act [33 U.S.C. § 1362(4)] which has jurisdiction over the indirect discharges to and the discharges from such a treatment works.

RECURRING OFFENSE — Two or more consecutive monitoring periods evidencing violations or a pattern of noncompliance.

REPLACEMENT COSTS — Those expenditures for obtaining and installing equipment, accessories, or appurtenances which are necessary during the service life of the treatment works to maintain the capacity and performance for which such works are designed and constructed.

RESIDENTIAL USER — All noncommercial premises used only for human residency and which are connected to the POTW.

SANITARY SEWER — A sewer which carries sewage and to which stormwater, surface water, and groundwater are not intentionally admitted.

SEEPAGE PIT (or DRY WELL) — A cistern or underground enclosure constructed of concrete blocks, bricks, or similar material loosely laid with open joints so as to allow the septic tank overflow or effluent to be absorbed directly into the surrounding soil.

SEPTIC TANK — A watertight receptacle receiving sewage and having an inlet and outlet so designed to permit the separation of suspended solids from wastes and to permit such retained solids to undergo decomposition therein.

SEVERE PROPERTY DAMAGE — Substantial physical damage or property damage to the POTW which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

SEWAGE — The water-carried wastes from residences, business buildings, industrial establishments and/or other premises, together with such infiltration as may be present.

SEWAGE DISPOSAL SYSTEM — A privy, cesspool, seepage pit, septic tank, sub-surface disposal system, or other devices, used in the disposal of sewage or human excreta, except treatment facilities covered by an NPDES permit.

SEWER — A pipe or conduit for carrying sewage.

SIGNIFICANT INDUSTRIAL USER (SIU) —

(a) Except as provided in Subsection (b) of the definition, the term "significant industrial user" means:

(1) All industrial users subject to categorical pretreatment standards under 40 CFR 403.6 and 40 CFR Chapter I, Subchapter N; and

(2) Any other industrial user that: discharges an average of 25,000 gallons per day or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewater); contributes a process waste stream which makes up 5% or more of the average dry weather hydraulic or organic capacity of the POTW; or is designated as such by the control authority as defined in 40 CFR 403.12(a) on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement [in accordance with 40 CFR 403.8(f)(6)].

(b) Upon a finding that an industrial user meeting the criteria in paragraph (a)(2) of this definition has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the Control Authority [as defined in 40 CFR 403.12(a)]may at any time, on its own initiative or in response to a

petition received from an industrial user, and in accordance with 40 CFR 403.8(f)(6), determine that such industrial user is not a significant industrial user.

SIGNIFICANT NONCOMPLIANCE (SNC) — Significant noncompliance has occurred in the event of any one or more of following have occurred:

(a) Chronic violations of wastewater discharge limits, defined here as those in which 66% or more of all the measurements taken for the same pollutant parameter taken during a six-month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including an instantaneous limit as defined in Section 29-3;

(b) Technical Review Criteria (TRC) violations, defined here as those in which 33% or more of wastewater measurements taken for each pollutant parameter during a six-month period equals or exceeds the product of the numeric pretreatment standard or requirement, including an instantaneous limit, as defined in Section 29-3 multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);

(c) Any other violation of a pretreatment effluent limit (daily maximum, longer-term average, instantaneous limit, or narrative standard) that the control authority determines has caused, alone or in combination with other discharges, interference or pass-through (including endangering the health of POTW personnel or the general public);

(d) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the POTW's exercise of its emergency authority under 40 CFR 403.8(f)(1)(vi)(B) to halt or prevent such a discharge;

(e) Failure to meet, within 90 days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance;

(f) Failure to provide, within 30 days after the due date, required reports such as baseline monitoring reports, ninety-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;

(g) Failure to accurately report noncompliance;

(h) Significant noncompliance for pH means:

(1) Any discharge whose pH is less than or equal to two or greater than or equal to 12.5 standard units.

(2) Those discharges in which 25% or more of all of the measurements taken during a six-month period are outside of the applicable limits for pH.

(i) Any other violation or group of violations, which may include a violation of best management practices, which the control authority determines will adversely affect the operation or implementation of the local pretreatment program.

SLUG DISCHARGE — Any discharge of a nonroutine, episodic nature, including, but not limited to, an accidental spill or a noncustomary batch discharge.

STATE — The State of Michigan.

STORM DRAIN or STORM SEWER — Any portion of the stormwater drainage system, including any natural outlet, which carries stormwater and surface water and drainage or unpolluted industrial process water, such as permitted by Section 29-7(b).

SUB-SURFACE DISPOSAL FIELD — A facility for the distribution of septic tank overflow or effluent below the ground surface through a line or a series of branch lines of drain tile laid with open joints to allow the overflow or effluent to be absorbed by the surrounding soil throughout the entire field.

SUPERINTENDENT — The superintendent of the Holland Area Water Reclamation Facility or the superintendent's authorized representative.

TOTAL SUSPENDED SOLIDS (TSS) — Solids that either float on the surface of, or are in suspension in water, sewage, or other liquids.

TOXIC POLLUTANT — Any pollutant or combination of pollutants identified as toxic pursuant to Section 307(a) of the Federal Water Pollution Control Act [33 U.S.C. § 1317(a)] or other federal statutes or in regulations promulgated by the state under state law.

UNPOLLUTED PROCESS WATERS — Any noncontact cooling or noncontact processing water that is not chemically changed by its use for cooling or processing, or water free of substances that are or may be harmful to humans or wildlife or that may create or constitute a nuisance.

UPSET — An exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the control of the industrial user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventative maintenance, or careless or improper operation and as further defined in 40 CFR 403.16.

USER — Any person who contributes, causes or permits the contribution of sewage into a public sewer.

USER CHARGE — A charge levied on the users of a treatment works for the costs of operation, maintenance and replacement of the treatment works pursuant to 33 U.S.C. § 1284(b)(1), as amended.

WASTEWATER — The liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, institutions and other facilities, whether treated or untreated.

WATERCOURSE — A channel, natural or artificial, in which a flow of water occurs either continuously or intermittently.

WATERS OF THE STATE — Includes:

(a) Both surface and underground waters within the boundaries of this state subject to its jurisdiction, including all ponds, lakes, rivers, streams, public ditches, tax ditches, and public drainage systems within this state, other than those designed and used to collect, convey, or dispose of sewage; and

(b) The floodplain free-flowing waters determined by the EGLE on the basis of one-hundred-year flood frequency; and

(c) Any other waters specified by state law.

Sec. 29-4. Compliance with chapter, state law, etc. [Ord. No. 1323, 12-5-2001; Ord. No. 1516, 9-3-2008]

No person shall establish, replace or alter any connections with any public sewer, or cause the same to be done, unless he or she shall comply with the provisions of this chapter, the laws of the state, and all other lawful regulations.

Sec. 29-5. Damage to or tampering with sewage system; prohibited. [Ord. No. 1323, 12-5-2001; Ord. No. 1516, 9-3-2008]

No person shall maliciously, willfully, or negligently break, damage, destroy, deface, or tamper with any structure, appurtenances, or equipment which is part of the POTW.

Sec. 29-6. Unlawful disposal of wastes. [Ord. No. 1323, 12-5-2001; Ord. No. 1516, 9-3-2008]

(a) No person shall dispose of wastes in such a manner, or permit the facilities or fixtures thereof to be in such condition, as shall be dangerous to public health.

(b) It shall be unlawful for any person to place, deposit or permit to be deposited in any manner upon public or private property within the City of Holland, or in any area under its jurisdiction, any human or animal excrement, garbage, or any substances that possess the characteristics described in Section 29-49 which constitute a nuisance unless specifically permitted by law, or which may constitute a hazard to the public health.

(c) It shall be unlawful for any person to discharge any waste into the POTW through a connection that has not been authorized pursuant to this chapter or directly into a public sewer without authorization.

Sec. 29-7. Discharge into storm drain or natural drain prohibited; exception. [Ord. No. 1323, 12-5-2001; Ord. No. 1516, 9-3-2008]

(a) It shall be unlawful to discharge to any natural outlet within the City of Holland, or in any area under its jurisdiction, any sewage or other polluted waters, except for those facilities described below.

(b) Any industrial waste disposal facility operating with a state-approved National Pollutant Discharge Elimination System (NPDES) permit shall be exempt from the prohibition of this section, and shall be subject to the following:

(1) If a temporary excess of any of the parameters listed in the NPDES permit is anticipated, Community and Neighborhood Services shall be informed immediately, and a written report shall follow that contains a description of the excess, the reasons for its occurrence, and a description of the corrective measures being taken and to be instituted. Such reporting is in no way in lieu of

other spill reporting requirements that are the responsibility of the NPDES permit holder.

(2) The industry shall allow Community and Neighborhood Services access to its property at reasonable times and under reasonable circumstances for the purpose of taking samples of the discharge from the facility. Any industry that discharges into the storm sewer system shall provide sampling manholes or appropriate access that is approved by Community and Neighborhood Services.

(c) The enforcing officer of this section is the Director of Community and Neighborhood Services of the City or an authorized deputy, agent or representative.

Sec. 29-8. Connection to public sewer required; exception. [Ord. No. 1323, 12-5-2001; Ord. No. 1516, 9-3-2008]

No person shall maintain any building having a sewage discharge on any premises where the public sewer is located on a street, alley, or right-of-way abutting such premises that lies within any sanitary sewer district unless that building is connected to the public sewer.

(a) Such connection shall be made in accordance with this chapter and applicable specifications provided by the BPW.

(b) Any structure in which sewage originates within the City shall be connected to any available public sewer within 18 months after publication of a legal notice of availability of a public sewer in a newspaper of general circulation in the City. For purposes of this section, a public sewer shall be considered to be available when it is located in a right-of-way, easement, highway, street, or public way which crosses, adjoins, or abuts upon the property in question and passes not more than 200 feet at the nearest point from the structure in which the sewage originates. For purposes of this section, the phrase "structure in which sewage originates" shall mean a building in which toilet, kitchen, laundry, bathing, or other facilities that generate sewage are used or are available for use for household, commercial, industrial or other purposes. If the structure in which sewage originates has not been connected to an available sanitary sewer within said eighteen-month period, then the City shall require the connection to be made in accordance with Section 12754 of the Michigan Public Health Code, as amended,[2] or any similar successor statutory provision. In so proceeding, the City shall have the rights and remedies provided in Section 12754, as well as all rights and remedies provided by this chapter.

(c) Such connection shall be used in accordance with the provisions of this chapter.

(d) It is unlawful to construct, replace, repair, renovate, extend, or expand any septic tank system or other sewage disposal system for any house, building, property, or other purpose on any premises where the public sewer is located on a street, alley, or right-of-way abutting such premises that lies within any sanitary sewer district.

(e) Any industrial waste disposal facility operating with a state-approved National Pollutant Discharge Elimination System (NPDES) permit shall be exempt from the prohibition of this section.

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2. Editor's Note: See MCLA § 333.12754.

(f) The enforcing officer of this section is the Director of Community and Neighborhood Services or an authorized deputy, agent or representative.

Sec. 29-9. Determination of unsanitary conditions; notice. [Ord. No. 1323, 12-5-2001; Ord. No. 1516, 9-3-2008]

Whenever the Council of the City of Holland, acting as a Board of Health, determines that any waste conveyance or system is dangerous to the public health, the Council may order improvements to abate the danger and specify the time within such improvements shall be made.

(a) Waste conveyances and systems include, but are not limited to: sanitary plumbing, toilet, or other fixture or facility for sanitary use or for the disposal of waste, including any connection thereof to a public sewer.

(b) The abatement order shall be conducted in accordance with the provisions of Section 15.17 of the Charter of the City of Holland, and shall include a statement of the opinion of Board of Health regarding what aspects of the waste conveyance or system are unsanitary and dangerous to the public health.

Sec. 29-10. Rates. [Ord. No. 1323, 12-5-2001; amended Ord. No. 1516, 9-3-2008; 12-3-2014 by Ord. No. 1643]

The City Council of the City shall establish rates for the use of, and the connection to, the public sewer. All users of the POTW shall be required to pay their proportionate use of the POTW in terms of volumetric and pollutant loadings. User charges shall be levied to defray the operation, maintenance, replacement, and debt retirement costs of the POTW.

(a) Water meters are required for residential users who are connected to the public water supply system in accordance with the City of Holland Water Use Ordinance. Bills for wastewater service for residential users connected to the public water supply system shall be calculated as follows:

(1) Base period. The actual usage shall be billed for the consumption months of December through April.

(2) Other months. Customers are billed for an average monthly usage from the base period usage. Either the average monthly usage or the actual usage, whichever is lower, will be applied to the bills.

(b) Bills for nonresidential users connected to the public water supply shall be based on actual metered flow. At a user's option and cost, and with the approval of the BPW, additional metering may be installed to meter water not discharged to the POTW, i.e., sprinkling, cooling water, etc.

(c) Nonresidential users have the option, at the customer's expense, to install an approved flowmeter on their sanitary sewer service. The customer must use a type of flowmeter approved by the BPW and must install and maintain it according to manufacturer's specifications to ensure the proper registering of all water being discharged to the sanitary sewer. The customer shall be responsible for all maintenance and calibration of

the flowmeter device at the customer's expense. The wastewater service bill will then be calculated based upon the reading of the sewage flowmeter. The installation of the flowmeter shall be inspected by the BPW prior to use to ensure proper installation and accurate measurement. The customer must submit maintenance records of the flowmeter on an annual basis as evidence of proper maintenance. If records are not submitted on an annual basis, the customer shall be billed for sewer charges based on water meter measurement until such evidence of regular maintenance is submitted.

(d) Residential users who do not have access to a public water supply will be given the option of:

(1) Paying a flat rate as established by the City Council of the City; or

(2) Using a meter to measure water use through the well supply and paying actual usage. Users who choose to use meters on well supplies shall be responsible for all maintenance and installation costs for the meter. A failure to perform within 30 days' notice any maintenance required for the meter to function accurately shall automatically cause the user's account to convert to the flat rate system, which will become effective in the month during which the user was notified of the need for meter maintenance.

(e) Nonresidential users who do not have access to a public water supply may not choose the flat rate option. Nonresidential users must install metering devices (as approved by the BPW) to measure the quantity of wastewater discharged to the sewage system.

(f) Each user who discharges compatible wastewater pollutants in strengths that exceed maximum allowable concentrations as defined in Section 29-51 shall pay appropriate surcharges for the treatment of those excess waste strengths. Such surcharge rates shall be established by the City Council of the City.

(g) Nondomestic users exceeding levels established in Section 29-50 must obtain special discharge allocations for certain pollutants in accordance with Article V (Section 29-47 et seq.); such users shall pay a rate for that allocation that includes a calculation for reserved physical plant capacity.

(h) All industrial users having monitored discharges shall pay a monthly charge for the operation of the POTW pretreatment program pursuant to Section 29-11 as shall be established by City Council of the City.

(i) The City shall reserve the right to adjust user charges based upon an audit review of costs. Such an audit review shall be conducted annually by the City.

Sec. 29-11. Adoption of fees and charges. [Ord. No. 1323, 12-5-2001; Ord. No. 1516, 9-3-2008]

The City may adopt charges and fees by resolution which may include:

(a) Fees for reimbursement of costs of setting up and operating the industrial pretreatment program;

(b) Fees for monitoring, inspection and surveillance procedures including the cost of reviewing monitoring reports submitted by the IU;

(c) Fees for reviewing accidental discharge procedures and construction;

(d) Fees for permit applications including the cost of processing such applications;

(e) Fees for filing appeals;

(f) Fees for consistent removal;

(g) Other fees as the City may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this chapter and are separate from all other fees chargeable by the City.

ARTICLE II
Violations—Penalties, Sanctions and Remedies

Sec. 29-12. Violations—nuisance per se. [Ord. No. 1323, 12-5-2001; Ord. No. 1516, 9-3-2008]

Every violation of the provisions of this chapter and every failure to comply with any notice given under authority of this chapter shall constitute a nuisance per se.

Sec. 29-13. Municipal civil infraction. [Ord. No. 1323, 12-5-2001; Ord. No. 1516, 9-3-2008; 1-17-2018 by Ord. No. 1719; amended 12-4-2019 by Ord. No. 1776]

Except for a violation which is specifically designated in this chapter as a misdemeanor violation, a person who violates or fails to comply with the provisions of this chapter or any of the sections or subsections within this chapter is responsible for a municipal civil infraction and subject to the civil fines set forth below and any other relief that may be imposed by the court. Each act of violation and each day upon which such violation occurs shall constitute a separate violation. For this chapter, the schedule of civil fines for municipal civil infractions and recurring offenses is as follows:

Violation Type	Nature of Violation	Sections	First Offense Fine	Second Offense Fine	Third Offense Fine	Period for Recurring Offense
See Note 1						
General	Sewage system tampered with or damaged	29-5	$100	$250	$500	1 year
	Unlawful disposal of waste	29-6	$500	N/A	N/A	N/A
	Discharge into storm drain or natural drain	29-7	$500	N/A	N/A	N/A
	Failure to connect to public sewer	29-8	$100	N/A	N/A	N/A
	Unsanitary conditions exist	29-9	$100	$250	$500	1 year

Violation Type	Nature of Violation	Sections	First Offense Fine	Second Offense Fine	Third Offense Fine	Period for Recurring Offense
Private Sewage Disposal	Failure to obtain private sewage system permit	29-26	$100	$250	$500	1 year
	Failure to have private sewage system inspected	29-27	$100	$250	$500	1 year
	Discharge of private septic system into public sewage system	29-28	$100	N/A	N/A	N/A
	Failure to operate private disposal system in a sanitary manner	29-30	$100	$250	$500	1 year
	Discharge of prohibited waste	29-31	$100	$250	$500	1 year
Building Sewers and Connections	Failure to obtain sanitary sewer connection permit	29-34	$100	$250	$500	1 year
	Opening or connecting with public sewer without permission	29-35	$100	$250	$500	1 year
	Failure to install interceptor device	29-42	$100	N/A	N/A	N/A
	Discharge of wastes not containing sewage	29-43	$0	$100	$500	1 year
	Failure to disconnect roof drain after notification	29-44	$500	N/A	N/A	N/A
	Failure to have building sewer connection Inspected	29-45	$100	$250	$500	1 year

Violation Type	Nature of Violation	Sections	Isolated	Recurring	Significant	Period For Recurring Offense
See Notes 1 & 2						
Pretreatment Discharge Violation	Unpermitted discharge; no permit was obtained	29-68	$500	$1,000	$2,000	1 year
	Any discharge that causes pass-through or interference (see Note 4)	29-49	N/A	N/A	$1,000	1 year
	Any discharge that causes pass-through or interference (2nd time) (see Note 4)	29-49	N/A	N/A	$2,000	1 year

Violation Type	Nature of Violation	Sections	Isolated	Recurring	Significant	Period For Recurring Offense
	Any discharge that causes pass-through or interference (3rd or more) (see Note 4)	29-49	N/A	N/A	$5,000	1 year
	Any discharge that endangers human health or the environment or has caused the POTW to exercise its emergency authority	29-15(g)	N/A	N/A	$10,000	1 year
	Failure to meet compliance date by 30 days		$0	N/A	N/A	1 year
	Failure to meet compliance date by 60 days		$250	N/A	N/A	1 year
	Failure to meet compliance date by 90 days		N/A	N/A	$500	1 year
	Failure to accurately report noncompliance (1st time)	29-55	N/A	N/A	$0	N/A
	Failure to accurately report noncompliance (2nd time)	29-55	N/A	N/A	$500	N/A
	Failure to accurately report noncompliance (3rd time)	29-55	N/A	N/A	$1,000	N/A
	Failure to properly operate and maintain pretreatment facility	29-52	$0	$500	$1,000	1 year
	Waste stream is diluted in lieu of treatment	29-53	$500	$1,000	$2,000	1 year
	Discharge of waste that causes obstruction	29-49	$0	$100	$500	1 year
Pretreatment Record-keeping Violation	Failure to develop spill prevention and slug control plans	29-54	$100	$0	$0	1 year
	Copies of records denied	29-57	$0	$500	$1,000	1 year
Pretreatment Reporting Violation	Failure to provide reports within 30 days	Division 4	N/A	N/A	$500	1 year
	Failure to report spill or changed discharge (no harm)	29-55	$0	$500	$1,000	1 year

Violation Type	Nature of Violation	Sections	Isolated	Recurring	Significant	Period For Recurring Offense
	Failure to report spill or changed discharge (harm)	29-55	$500	$1,000	$2,000	1 year
	Incomplete or missing records or reports	29-57	$0	$0	$500	1 year
	Failure to report additional monitoring	29-80.4	$0	$100	$500	1 year
	Failure to notify of bypass	29-75	$100	$500	$1,000	1 year
Pretreatment Monitoring Violations	Failure to monitor all pollutants according to permit		$0	$100	$500	1 year
	Failure to install monitoring equipment	29-74	$0	$100	$500	1 year
	Sampling at incorrect location	29-80.4	$0	$100	$500	1 year
	Sampling using incorrect sampling type	29-80.4	$0	$100	$500	1 year
	Sampling using incorrect sample collection techniques	29-80.2	$0	$100	$500	1 year
	Failure to use proper analytical requirements	29-80.2	$0	$100	$500	1 year
Other Pretreatment Violations	Failure to post POTW phone number in facility	29-56	$0	$100	$500	1 year
	Failure to train employees in emergency notification procedures	29-56	$0	$100	$500	1 year
	Entry for site visit denied or consent withdrawn	29-60	$0	$500	$1,000	1 year
	Failure to meet compliance deadlines for existing or new source	29-61	$500	$1,000	$2,000	1 year
Other	Any other violation of Chapter 29		$100	$250	$500	1 year

Violation Type	Nature of Violation	Sections	Isolated	Significant	Period For Recurring Offense
See Notes 1 & 2					
Pre-treatment Discharge Violation	Violation of discharge limit	29-49	$0	$500	1 year
	Violation of applicable Technical Review Criteria (TRC) (See Notes 3 & 4)	29-49	$0	$1,000	1 year

Note 1: N/A means the offense accumulation time is not applicable or each offense is considered to be a separate and new offense or each is considered to be significant.

Note 2: Notwithstanding civil penalty amounts delineated on this schedule, any violation delineated shall be subject to a civil penalty of not less than $1,000 per day.

Note 3: TRC = 140% for BOD, TSS, fats, oil, and grease, and 120% for all other pollutants except pH which has no TRC.

Note 4: All mercury violations will be handled as outline in the control authority's Enforcement Response Plan (ERP).

Sec. 29-14. Misdemeanor. [Ord. No. 1323, 12-5-2001; Ord. No. 1516, 9-3-2008]

A person who violates any provision of this chapter that is listed below is guilty of a misdemeanor. Such misdemeanors are subject to a fine of not more than $500 or the maximum allowable under state law, plus costs and other sanctions, or by imprisonment for a period not to exceed 90 days, or both. Misdemeanor violations include:

(a) Intentional unpermitted discharge;

(b) Falsification of monitoring report;

(c) Improper sampling, with evidence of intent to falsify or mislead;

(d) Intentional failure to install monitoring equipment after deadline was established by administrative order;

(e) Intentional recurring violation of compliance schedule in permit, or a violation of a compliance schedule in an administrative order; and

(f) Illegal discharge when the discharge causes harm and there is evidence of intent.

Sec. 29-15. Administrative remedies. [Ord. No. 1323, 12-5-2001; Ord. No. 1516, 9-3-2008]

A person who violates any provision of this chapter is subject to the administrative remedies described herein in addition to being responsible for a municipal civil infraction or a misdemeanor.

(a) Notification of violation. Whenever the control authority finds that any user has violated or is violating any provision of this chapter, or a wastewater discharge permit or order issued hereunder, the control authority may serve upon said user written notice of the violation. Within 10 days of the receipt date of such notice, the user shall submit to the control authority an explanation of the violation and a plan for the satisfactory correction and prevention thereof, including specific required actions. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation.

(b) Consent order. The control authority is empowered to enter into consent orders, assurances of voluntary compliance, and other similar documents establishing an agreement with the user responsible for the noncompliance. Such documents will include compliance schedules, stipulated fines or penalties, remedial actions, and signatures of the control authority and user. Consent orders shall have the same force and effect as administrative orders issued pursuant to this section.

(c) Show cause order. The control authority may order any user which violates this chapter, wastewater discharge permit, or order issued hereunder, to show cause why a proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least 10 days prior to the hearing. Such notice may be served on any principal executive, general partner, or corporate officer. Enforcement action may be pursued as appropriate, whether or not a duly notified user appears as noticed.

(d) Compliance order. When the control authority finds that a user has violated or continues to violate this chapter or a wastewater discharge permit issued thereunder, an order may be issued to the user responsible for the violation directing that, following a specified time period, sewer service shall be discontinued unless adequate treatment facilities, devices, or other related appurtenances have been installed and are properly operated, and compliance is achieved. In addition or as an alternative, orders may contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance, including the installation of pretreatment technology, additional self-monitoring, and management practices.

(e) Cease and desist order. When the control authority finds that a user has violated or continues to violate this chapter or a wastewater discharge permit issued thereunder, an order may be issued to the user responsible for the violation directing that such violation cease and desist immediately.

(1) In an emergency, the order to cease and desist may be given by telephone.

(2) In a nonemergency situation, the cease and desist order may be used to suspend or permanently revoke industrial wastewater discharge permits.

(3) The cease and desist order may order the user to take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and terminating the discharge.

(f) Administrative fines. Notwithstanding any other section of this chapter, any user who is found to have violated any provision under this chapter, or permits and orders issued thereunder, may be fined in an amount of $1,000 per day, or the maximum allowable under state law per violation. Each day on which noncompliance shall occur or continue shall be deemed a separate and distinct violation. Such assessments shall be added to user's next scheduled sewer service charge, and the control authority shall have such other collection rights and remedies as designated by law and this chapter to collect said service charges. Unpaid charges, fines, and penalties shall constitute a lien against the individual user's property. Users desiring to appeal such fines must comply with Section 29-24 of this chapter.

(g) Emergency suspension. The control authority may suspend the wastewater treatment service and the wastewater discharge permit of a user whenever such suspension is necessary in order to stop an actual or threatened discharge that presents or causes an imminent or substantial endangerment to the health or welfare of persons, the POTW, or the environment.

(1) Any user notified of a suspension of the wastewater treatment service or wastewater discharge permit shall immediately stop or eliminate its discharge. If a user fails to immediately comply voluntarily with the suspension order, the control authority shall take such steps as are deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to any person, the POTW, or the environment. The control authority shall allow the user to recommence its discharge when the endangerment has passed, unless termination proceedings are initiated against the user.

(2) A user who is responsible (in whole or in part) for imminent endangerment shall submit a detailed written statement to the control authority describing the causes of the harmful discharge and the measures taken to prevent any future occurrence. Such statement shall be submitted prior to the date of any appeals hearing as may be scheduled in accordance with Section 29-24.

(h) Termination of wastewater discharge permit. Any industrial user who violates the following conditions of his or her wastewater discharge permit or any applicable state or federal law is subject to permit termination.

(1) Failure to accurately report the wastewater constituents and characteristics.

(2) Failure to report significant changes in operations or wastewater constituents and characteristics.

(3) Refusal of reasonable access to the user's premises for the purposes of inspection, monitoring, or sampling.

Noncompliant users shall be notified of the proposed termination of their wastewater discharge permit and be offered an opportunity to show cause under the provisions of Section 29-15(c) why the proposed action should not be taken.

(i) Annual publication of IUs in significant noncompliance. The control authority shall publish, at least annually in the largest daily newspaper circulated in the service area, a description of those users which are found to be in significant noncompliance, as defined in Section 29-3 of this chapter, with any provisions of this chapter or any permit or order issued hereunder during the period since the previous publication.

Sec. 29-16. Judicial remedies. [Ord. No. 1323, 12-5-2001; Ord. No. 1516, 9-3-2008]

A person who violates any provision of this chapter is subject to the judicial remedies described herein in addition to being responsible for a municipal civil infraction, a misdemeanor, or an administrative remedy.

(a) Injunctive relief. Whenever a user has violated or continues to violate the provisions of this chapter or permit or order issued hereunder, the control authority, through counsel may petition the court for the issuance of a preliminary or permanent injunction or both (as may be appropriate) which restrains or compels the activities on the part of the user.

(b) Civil fines.

(1) Any user who has violated or continues to violate this chapter or any order or permit issued hereunder, may be liable to the POTW for a civil fine of up to $1,000, plus actual damages incurred by the POTW per violation per day for as long as the violation continues depending on the application of the facts and circumstances of the violation. In addition to the above described penalty and damages, the POTW may recover reasonable attorney's fees, court costs, and other expenses associated with the enforcement activities, including sampling, monitoring and analysis expenses.

(2) The control authority shall petition the court to impose, assess, and recover such sums. In determining amount of liability, the court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user, and any other factor as justice requires.

(c) Criminal prosecution.

(1) Violations generally.

a. Any user who violates Section 29-14 shall, upon conviction, be guilty of a misdemeanor, punishable by a fine not to exceed $500 or the maximum allowable under state law per violation per day or imprisonment for not more than 90 days or both.

b. In the event of a second conviction, the user shall be punishable by a fine not to exceed $500 or the maximum allowable under state law per violation per day or imprisonment for not more than 90 days or both.

(2) Falsifying information. Any user who knowingly or intentionally makes any false statements, representations, or certifications in any application, record, report, plan or other document filed or required to be maintained pursuant to this

chapter, or wastewater discharge permit, or who falsifies, tampers with, or knowingly or intentionally renders inaccurate any monitoring device or method required under this chapter shall, upon conviction, be punished by a fine in an amount not to exceed $500 or the maximum allowable under state law per violation per day or imprisonment for not more than 90 days or both.

Sec. 29-17. Supplemental enforcement remedies. [Ord. No. 1323, 12-5-2001; Ord. No. 1516, 9-3-2008]

A person who violates any provision of this chapter is subject to supplemental enforcement remedies described herein in addition to being responsible for a municipal civil infraction, a misdemeanor, an administrative remedy, or a judicial remedy.

(a) Performance bonds/letters of credit. The control authority may decline to reissue a permit to any user which has failed to comply with the provisions of this chapter or any order or previous permit issued hereunder unless such user first files with it a satisfactory bond or letter of credit, payable to the control authority, in a sum not to exceed a value determined by the control authority to be necessary to achieve consistent compliance.

(b) Liability insurance. The control authority may decline to reissue a wastewater discharge permit to any user which has failed to comply with the provisions of this chapter or any order or previous permit issued hereunder, unless the user first submits proof that it has obtained financial assurances sufficient to restore or repair POTW damage caused by its discharge.

(c) Water supply severance. Whenever a user has violated or continues to violate the provisions of this chapter or an order or permit issued hereunder, water service to the user may be severed and service will only recommence, at the user's expense, after it has satisfactorily demonstrated its ability to comply.

(d) Public nuisances. Any violation of the prohibitions or effluent restrictions of this chapter or permit or order issued hereunder is hereby declared a public nuisance and shall be corrected or abated as directed by the control authority. Any person(s) creating a public nuisance shall be subject to the provisions of Chapter 19 of the City Code governing such nuisance, including reimbursing the City for any costs incurred in removing, abating, or remedying said nuisance.

Sec. 29-18. Recurring offense. [Ord. No. 1323, 12-5-2001; Ord. No. 1516, 9-3-2008]

As used in this chapter, "recurring offense" means a second (or any subsequent) municipal civil infraction violation of the same requirement or provision of this chapter committed by a person within any six-month period or for any two successive six-month periods for which the person admits responsibility or is determined to be responsible.

Sec. 29-19. Each day a separate offense. [Ord. No. 1323, 12-5-2001; Ord. No. 1516, 9-3-2008]

Each day in which any violation shall continue shall be deemed a separate offense.

Sec. 29-20. Liens. [Ord. No. 1323, 12-5-2001; Ord. No. 1516, 9-3-2008]

Fines and costs incurred by any person found to be in violation of this chapter that are not paid within the time frame allocated shall become a lien against the user's property.

Sec. 29-21. Liable for costs. [Ord. No. 1323, 12-5-2001; Ord. No. 1516, 9-3-2008]

Any person violating any of the provisions of this chapter shall become liable to the City for any expense, loss, or damage (including attorney fees) incurred by the City by reason of such violation.

Sec. 29-22. Construction of chapter. [Ord. No. 1323, 12-5-2001; Ord. No. 1516, 9-3-2008]

The provisions of this chapter shall not be construed to limit the powers of the enforcing officer or other public officials or bodies to proceed to abate a health nuisance or a pollutant discharge in violation of ordinance limits, nor shall the provisions of this chapter be construed to provide adequate protection under all situations.

Sec. 29-23. Order of additional requirements. [Ord. No. 1323, 12-5-2001; Ord. No. 1516, 9-3-2008]

If the enforcing officer determines that additional or more strict requirements are necessary to avoid the creation or extension of a health nuisance or a pollutant discharge in violation of ordinance limits, he or she shall enter an appropriate order setting forth the requirements and the conditions making such requirements necessary.

Sec. 29-24. Right of appeal. [Ord. No. 1323, 12-5-2001; Ord. No. 1516, 9-3-2008]

Except for an appeal pursuant to Section 29-73 or notices of violation (including such notices issued as a civil infraction under Section 29-13), or administrative consent orders, or emergency actions as defined herein, or a variance pursuant to Section 29-46, any decision relating to the enforcement of this chapter may be appealed to the Board of Directors of the BPW or the Council of the City, whichever is the enforcing body for that decision, on written request of an aggrieved person. Unless this chapter specifically designates the Council of the City as the enforcing body, all appeals under this section shall be appealed to the Board of Directors of the Board of Public Works.

(a) In the event a petition to review is not filed within 15 days of being notified of a violation, fine, or cost, the failure to file such an appeal shall be deemed a waiver of any and all administrative appeal rights.

(b) In its petition, the appealing party shall state the basis for its appeal, the reasons in support of its appeal, and any alternative relief which the aggrieved party seeks.

(c) During the pendency of the appeal, the applicant must comply with the enforcement action for which the appeal is taken.

(d) The enforcing body shall:

(1) Deny the appeal,

(2) Grant the appeal,

(3) Grant the appeal with additional conditions.

(e) The enforcing body's decision shall be made within 30 days of receiving the appeal request.

(f) The decision of the enforcing body shall be the final administrative action for purposes of judicial review.

ARTICLE III
Private Sewage Disposal Systems

Sec. 29-25. Where permitted. [Ord. No. 1323, 12-5-2001; Ord. No. 1516, 9-3-2008]

Except as otherwise provided in this chapter or where a public sewer is not available under the provisions of Section 29-8, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this article.

Sec. 29-26. Permit required; fees. [Ord. No. 1323, 12-5-2001; Ord. No. 1516, 9-3-2008]

Before commencement of construction of a private sewage disposal system, the owner shall first obtain a written permit signed by a representative of the Community and Neighborhood Services office. The application for such permit shall be made on a form furnished by the City, which the applicant shall supplement by any plans, specifications, and other information, such as soil data, that may be deemed necessary by a representative of the Community and Neighborhood Services office. A permit and inspection fee shall be paid to the City Treasurer at the time the application is filed in accordance with the schedule of fees approved and adopted by City Council.

The enforcing officer of this section is the Director of Community and Neighborhood Services, or an authorized deputy, agent, or representative.

Sec. 29-27. Inspection. [Ord. No. 1323, 12-5-2001; Ord. No. 1516, 9-3-2008]

A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of Community and Neighborhood Services. Community and Neighborhood Services shall be allowed to inspect the work at any stage of construction, and in any event, the applicant for the permit shall notify Community and Neighborhood Services when the work is ready for final inspection, and before any underground portions are covered.

The enforcing officer of this section is the Director of Community and Neighborhood Services, or an authorized deputy, agent, or representative.

Sec. 29-28. Compliance with rules and regulations; discharge into public sewer prohibited. [Ord. No. 1323, 12-5-2001; Ord. No. 1516, 9-3-2008]

The City Council shall adopt rules and regulations governing the construction, maintenance, and use of private sewage disposal systems. Such rules and regulations may be adopted and/or amended by vote of the City Council without the necessity of public hearing.

No sewage disposal system shall be permitted to discharge to any public sewer or natural outlet.

The enforcing officer of this section is the Director of Community and Neighborhood Services, or an authorized deputy, agent, or representative.

Sec. 29-29. Termination. [Ord. No. 1323, 12-5-2001; Ord. No. 1516, 9-3-2008]

At such time as a public sewer becomes available to a property served by a private sewage disposal system, a direct connection shall be made to the public sewer in compliance with this chapter.

Sec. 29-30. Sanitary operation required. [Ord. No. 1323, 12-5-2001; Ord. No. 1516, 9-3-2008]

The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the City, and in such a manner as to not create a public nuisance.

The enforcing officer of this section is the Director of Community and Neighborhood Services, or an authorized deputy, agent, or representative.

Sec. 29-31. Prohibited waste discharge—generally. [Ord. No. 1323, 12-5-2001; Ord. No. 1516, 9-3-2008]

Liquid wastes which shall not be discharged into a private sewage disposal system, unless specifically approved by Community and Neighborhood Services, include:

(a) Seepage water from footing drains or underground flows.

(b) Surface runoff or roof drainage from rainfall or snow melt.

(c) A swimming pool or its appurtenance.

(d) Brine or recharge water from a water softener of the ion-exchange type.

(e) Chemical solutions or other wastes which would interfere with biological action in the treatment facilities.

The enforcing officer of this section is the Director of Community and Neighborhood Services, or an authorized deputy, agent, or representative.

Sec. 29-32. Requirements for disposal. [Ord. No. 1323, 12-5-2001; Ord. No. 1516, 9-3-2008]

Community and Neighborhood Services may require suitable provisions for the proper discharge or disposal of liquid wastes enumerated in Section 29-31.

Sec. 29-33. Emergency provisions. [Ord. No. 1323, 12-5-2001; Ord. No. 1516, 9-3-2008]

No statement contained in this article shall be construed to interfere with any additional requirements that may be imposed by Community and Neighborhood Services or the BPW in case of an emergency or an immediate public health hazard.

ARTICLE IV
Building Sewers and Connections

Sec. 29-34. Connection permit required from community and neighborhood services. [Ord. No. 1323, 12-5-2001; Ord. No. 1406, 3-2-2005]

No connections shall be made to any sanitary sewer until a connection permit has been secured from Community and Neighborhood Services.

Sec. 29-35. Permission required for opening public sewers. [Ord. No. 1323, 12-5-2001; Ord. No. 1406, 3-2-2005]

No person, other than authorized municipal employees, shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining written permission from the BPW.

Sec. 29-36. Costs. [Ord. No. 1323, 12-5-2001; Ord. No. 1406, 3-2-2005]

All costs and expenses incidental to the installation, connection, and maintenance of the building sewer shall be borne by the owner. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation or maintenance of the building sewer and connection with the public sewer systems.

Sec. 29-37. Reconstruction of sanitary sewer; new service; lien. [Ord. No. 1323, 12-5-2001; Ord. No. 1406, 3-2-2005]

(a) In the event the City determines that the sanitary sewer connection of the property owner is defective, violates the provisions of this chapter, is subject to infiltration, or is functionally inoperable or incompatible with the newly installed public sewer, the property owner shall be responsible to install a new building sewer to the public sewer. All costs incurred for the new sanitary sewer connection shall be paid by the property owner.

(b) The City shall be permitted to construct a new building sewer and enter on private property for such installation if a property owner fails to construct a new building

sewer pursuant to Subsection (a) hereof. The City shall recover from the property owner a fee determined by the Board of Public Works for installing such service or device. If such reimbursement is not paid within 60 days after demand has been made by the City, the amount demanded shall be deemed to be a lien on the property for sewer service furnished.

Sec. 29-38. Separate sewers required; exception. [Ord. No. 1323, 12-5-2001; Ord. No. 1406, 3-2-2005]

(a) Except as provided in Subsection (b), a separate and independent building sewer shall be provided for every building.

(b) An existing joint sewer shall be permitted to continue if all of the following conditions are met:

(1) The shared section of the joint building sewer providing service to two or more buildings is determined by Community and Neighborhood Services to be of adequate size to serve all of the buildings which are connected to it;

(2) The joint building sewer laterals are determined by Community and Neighborhood Services not to have any defects or be subject to infiltration;

(3) The joint building sewer was in existence at the time this ordinance was adopted;

In the event a joint building sewer is permitted pursuant to this Subsection (b), the joint sewer shall be replaced and separated at such time: (i) as a public sewer repair or replacement project is commenced in the right-of-way, or otherwise, making available a lateral to service the property; or (ii) the joint building sewer requires a replacement of more than five feet of the joint sewer line and a lateral to service the property is available in the right-of-way.

Sec. 29-39. Use of old building sewers. [Ord. No. 1323, 12-5-2001; Ord. No. 1406, 3-2-2005]

Old building sewers may be used in connection with new buildings only when they are found to be acceptable for use. Such determination shall be at the discretion of Community and Neighborhood Services after examination of the old sewer.

Sec. 29-40. Design and construction requirements. [Ord. No. 1323, 12-5-2001; Ord. No. 1406, 3-2-2005]

The size, slope, alignment, materials of construction of a building sewer; the methods to be used in excavating, placing of the pipe, joining, testing and backfilling the trench; and the connection of the building sewer into the public sewer shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations of the City of Holland. In the absence of code provisions or in application thereof, the materials and procedures set forth in appropriate specifications of the ASTM, and WEF MOP No. 9 and any amendments thereto shall apply.

Sec. 29-41. Requirements for lift devices. [Ord. No. 1323, 12-5-2001; Ord. No. 1406, 3-2-2005]

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.

Sec. 29-42. Interceptor devices; when required; requirements. [Ord. No. 1323, 12-5-2001; Ord. No. 1406, 3-2-2005]

Interceptor devices shall be provided when they are necessary for the proper handling of liquid wastes containing grease in excessive amounts or any flammable wastes, sand or other harmful ingredients. Notwithstanding the foregoing, interceptors shall not be required for living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the BPW and shall be located so as to be readily accessible for cleaning and inspection. All interceptor devices shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature. Such interceptor devices shall be of substantial construction, watertight and equipped with easily removable covers which, when bolted in place, shall be gastight and watertight. All interceptor devices from which such wastes emanate shall be maintained in continuously efficient operation at all times by the owner of the building or premises or his or her authorized representative, at their expense.

Sec. 29-43. Discharge of waters not containing sewage prohibited; corrective action; lien for services. [Ord. No. 1323, 12-5-2001; Ord. No. 1406, 3-2-2005]

(a) No person shall discharge, or cause to be discharged, any stormwater, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water, or unpolluted process water to the sanitary sewer system.

(b) If a connection to the sanitary sewer is found to exist, the property owner shall be responsible for separating the connection and shall perform all corrective repairs to comply with the provisions of this section.

(c) If the property owner fails to separate the connection from the sanitary sewer system, the City shall be permitted [to] enter onto private property in order to separate the connection and make any necessary installation or construction. The City shall recover from the property owner a fee (as determined by the BPW) for separating such service or device. If such fee is not paid within 60 days after the demand has been made by the City, that amount shall constitute a lien on the property and shall be subject to foreclosure and enforcement in accordance with the statutes of this state.

Sec. 29-44. Compliance with Building and Plumbing Code. [Ord. No. 1323, 12-5-2001; Ord. No. 1406, 3-2-2005]

The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the City or the procedures set forth in appropriate specification of ASTM, and the WEF Manual of Practice No. 9 and any amendments thereto. All such connections shall be made gastight and watertight.

Sec. 29-45. Inspection required; notification. [Ord. No. 1323, 12-5-2001; Ord. No. 1406, 3-2-2005]

An applicant for a building sewer permit shall notify Community and Neighborhood Services when the building sewer is ready for inspection. The enforcing officer for this section is the Director of Community and Neighborhood Services, or an authorized deputy, agent, or representative.

Sec. 29-46. Request for variance. [Ord. No. 1323, 12-5-2001; Ord. No. 1406, 3-2-2005]

Any person adversely affected or aggrieved by the provisions of Section 29-37, 29-38, or 29-39 may appeal to the Housing Board of Appeals for variance from those provision and requirements.

(a) In the event a petition to review is not filed within 30 days of being notified of the need to comply with a provision or requirement, the failure to file such a variance request shall be deemed a waiver of any and all administrative appeal rights.

(b) In its petition, the appealing party shall state the basis for its appeal, the reasons in support of its request, and any alternative relief which the aggrieved party seeks. The petition filed by the appealing party shall include a staff report from the BPW reviewing the appealing party's appeal with a recommendation to the Housing Board of Appeals.

(c) The Housing Board of Appeals shall:

(1) Deny the appeal;

(2) Grant the appeal;

(3) Grant the appeal with additional conditions.

(d) The enforcing body's decision shall be made within 30 days of receiving the appeal request.

(e) The decision of the enforcing body shall be the final administrative action for purposes of judicial review.

ARTICLE V
Use of Public Sewers

DIVISION 1
General Pretreatment Requirements

Sec. 29-47. Purpose of pretreatment requirements. [Ord. No. 1323, 12-5-2001; Ord. No. 1516, 9-3-2008]

(a) The purposes of Article V are:

(1) To establish uniform requirements for direct and indirect contributors into the wastewater collection and treatment system and to enable the POTW to comply

with applicable state and federal laws and the general pretreatment regulations (40 CFR, Part 403);

(2) To prevent the introduction of pollutants into the POTW which will:

a. Interfere with the operation of the system;

b. Cause the POTW to violate its NPDES discharge permit;

c. Contaminate the sludge;

d. Pass through the system, inadequately treated, into receiving waters or the atmosphere;

e. Pose a health threat to sewer workers; or

f. Be otherwise incompatible with the system.

(3) To improve the opportunity to recycle and reclaim wastewaters and sludges from the system; and

(4) To provide for equitable distribution of the cost of the municipal wastewater system.

(b) Future conditions imposed on the control authority by jurisdictional government agencies may require subsequent amendments of this chapter or rules and regulations adopted hereunder by the control authority. Where federal or state promulgated categorical pretreatment standards require limits more stringent than those specified in this chapter, the state and federal limits shall have precedence and take effect with respect to the applicable user on the latter of:

(1) Their promulgation date, or

(2) The date specified for compliance with such standards.

Sec. 29-48. Right of revision. [Ord. No. 1323, 12-5-2001; Ord. No. 1516, 9-3-2008]

The City shall have the right to establish any standard or prohibition as long as it is as restrictive or more restrictive than any federal or state requirements.

Sec. 29-49. General discharge prohibitions. [Ord. No. 1323, 12-5-2001; Ord. No. 1516, 9-3-2008; 1-17-2018 by Ord. No. 1719; amended 12-4-2019 by Ord. No. 1776]

(a) Generally.

(1) It shall be unlawful to discharge any wastewater to the POTW except in accordance with the provisions of this section.

(2) No user shall contribute or cause to be contributed, directly or indirectly to the POTW, any pollutant or wastewater which will pass-through or cause interference with the operation or performance of the POTW.

(3) No person shall discharge or cause to be discharged to any public sewer any stormwater, surface water, groundwater, roof runoff, subsurface drainage, cooling water, unpolluted air-conditioning water or unpolluted industrial process water. No footing drain, roof downspout, areaway drain or other source of surface water or groundwater shall be connected to a public sewer. All footing drain water shall be discharged to storm sewers or dry wells. Stormwater and all other unpolluted drainage shall be discharged to sewers specifically designated as storm sewers, or to a natural outlet approved by the EGLE. The discharge of cooling water or unpolluted industrial process water shall only be permitted when an NPDES permit cannot be obtained and no other discharge option exists.

(b) Prohibited. No user shall contribute the following substances to the POTW:

(1) Any substances which by reason of their nature or quantity may create a fire or explosion hazard or be injurious to the POTW or to the operation of the POTW, including but not limited to, waste streams with a closed cup flash point of less than 140° F. or 60° C. using the test methods specified in 40 CFR 261.21.

(2) Any solid or viscous substances which may cause obstruction to the flow in a sewer or other interference with the operation of the POTW such as, but not limited to: grease, garbage with particles greater than 1/2 inch in any dimension, or any material which can be disposed of as trash.

(3) Any wastewater having a pH less than six or greater than 11.0 or having any other corrosive property capable of causing damage or hazard to structures, equipment, or personnel of the POTW.

(4) Any substance which may cause a public nuisance, cause hazard to life or prevent entry into the sewers for maintenance and repair.

(5) Heat in amounts which will inhibit biological activity in the POTW resulting in interference, but in no case heat in such quantities that the temperature at the POTW exceeds 40° C. 104° F.

(6) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass-through.

(7) Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems.

(8) Any trucked or hauled pollutants, except at discharge points and as otherwise designated by the control authority.

(9) Any pollutant, including oxygen demanding pollutants released in a discharge at a flow rate and or concentration (including any slug discharge), which may cause interference to the POTW.

(10) Any of the following toxic pollutants: (a) those pollutants listed on the current critical materials register prepared pursuant to Section 66 of the Water Resources Commission Act (MCL § 323.1 et. seq.)[3] by the Michigan Water Resources

3. Editor's Note: Said Act was repealed by P.A. 1994, No. 451, § 90101, effective 3-30-1995. See now MCLA § 324.3101 et seq.

Commission or its successors, and (b) those pollutants identified by the HBPW as a "toxic pollutant" by amendment to this section. If a pollutant is specifically allowed by the HBPW, Section 29-49(b)(14) or categorical pretreatment standards, then the above subsection does not apply.

(11) Any toxic substances in amounts exceeding standards promulgated by the administrator of the United States Environmental Protection Agency pursuant to Section 307(a) of the Federal Water Pollution Act of 1972, as amended [33 U.S.C. § 1317(a)].

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

(13) Any discoloration other than the color of normal strength domestic waste, including, but not limited to, dyes, inks and vegetable tanning solutions which singularly or in conjunction with other waste constituents is deleterious to treatment and/or sludge disposal practices or a hazard to the POTW and its employees.

(14) Any wastewater discharge with a monthly average hydrogen sulfide gas concentration above the NIOSH Recommended Exposure Limit (10 ppm) and/or with a peak hydrogen sulfide gas concentration above the NIOSH Immediately Dangerous to Life and Health limit (100 ppm) without approval of the control authority. Approval of the control authority for alternate limits will be subject to the following:

a. Submittal of an acceptable health and safety plan that sufficiently outlines procedures for the safe access of the impacted site and sanitary sewer;

b. Demonstration that the discharge will not create nuisance odors; and

c. Completion of any improvements to the sanitary sewer system (at user's expense) determined necessary by the control authority in order to prevent increased corrosion due to the elevated hydrogen sulfide concentrations.

(15) Any unused pharmaceuticals (both over-the-counter and prescription-only medications).

(16) Any wastewater having effluent characteristics in excess of:

Table 1
Prohibited Pollutants

	Daily Maximum Allowable Concentration mg/l
Organics	
Acetone	170
Benzene	0.16
Methyl Ethyl Ketone	120

Table 1 Prohibited Pollutants	
	Daily Maximum Allowable Concentration mg/l
Chloroethane	1.8
Chloromethane	1.2
Chloroform	0.64
Dibromochloromethane	0.086
1,4-Dichlorobenzene	0.40
1,1-Dichloroethane	8.3
1,1-Dichloroethylene	1.4
cis-1,2-Dichloroethylene	2.9
trans-1,2-Dichloroethylene	2.8
Diethyl Ether	21
Ethyl Benzene	0.44
Lindane	0.00038
4-Methyl-2-Pentanone	20
Methylene Chloride	0.66
Styrene	0.29
Tetrachloroethylene	0.050
Toluene	3.5
1,1,1-Trichloroethane	1
Trichloroethylene	0.34
1,2,4-Trimethylbenzene	0.50
Xylenes, Total	0.91
Phenols, Total	0.90
Metals	
Arsenic	0.12
Cadmium	0.059
Chromium	1.3
Copper	1.3
Cyanide, Amenable	0.083

Table 1 Prohibited Pollutants	
	Daily Maximum Allowable Concentration mg/l
Lead	1.1
Lithium	2.9
Mercury	See 29-49(b)(17)
Molybdenum	0.28
Nickel	0.865
Selenium	0.10
Silver	0.037
Zinc	4.2
Compatibles	
Grease & Oil (Nonpolar Fraction)	200

(17) Except as provided in Section 29-49(c), there shall be no detectable amounts of mercury discharged into the POTW. The local discharge limitation for mercury is established at the method detection limit (MDL) in accordance with the following:

Mercury sampling procedures, preservation and handling, and analytical protocol for compliance monitoring shall be in accordance with EPA Method 245.1. The MDL, developed in accordance with the procedure specified in 40 CFR Part 136 shall not exceed 0.2 ug/L for mercury, unless higher levels are appropriate due to matrix interference.

The evaluation of potential matrix interference(s) shall include, at a minimum, the following:

a. A demonstration that the laboratory conducting the analysis is capable of achieving the MDL of 0.2 ug/L in reagent water;

b. A demonstration that the MDL of 0.2 ug/L cannot be achieved in the effluent; and

c. A demonstration that an attempt has been made to resolve the matrix interference(s).

In cases where true matrix interference(s) can be demonstrated, a discharge-specific MDL will be developed in accordance with the procedure in 40 CFR Part 136. Discharge-specific MDLs will be incorporated into the wastewater discharge permit of the nondomestic user.

Mercury Reduction Plans

To ensure that the maximum allowable mercury loading to the POTW is not exceeded, the control authority may require any nondomestic user with a reasonable potential to discharge mercury to develop, submit for approval and implement a Mercury Reduction Plan (MRP). The MRP may be required by permit if the nondomestic user has not violated the local limit for mercury, but the control authority has determined that a reasonable potential for such a violation may exist. MRPs may be required in notices of violations, orders or other enforcement actions when the nondomestic user has violated the mercury local limit. At a minimum, an approvable MRP shall contain the following:

a) A written commitment by the nondomestic user to reduce all nondomestic discharges of mercury to levels below the MDL within a time frame approved by the control authority;

b) Within 60 days of notification by the control authority that a MRP is required, the nondomestic user shall supply an initial identification of all potential sources of mercury which could be discharged to the POTW;

c) Specific strategies for mercury reduction with reasonable time frames for implementation, capable of ensuring that mercury discharges will be below the specified MDL within a time frame approved by the control authority;

d) A program for sampling and analysis of the nondomestic discharge for mercury in accordance with [EPA Method] 245.1 methods;

e) A demonstration of specific, measurable and/or otherwise quantifiable mercury reductions consistent with the goal of reducing mercury discharges below the specified MDL. Where such reductions cannot be demonstrated through normal effluent monitoring (e.g., mercury discharges are already near MDL), the demonstration should incorporate the following:

1) Internal process monitoring, documenting the results of mercury reduction strategies at sampling locations within the facility (e.g., a program of regular monitoring of sink traps where mercury-containing reagents had previously been disposed, but have since been substituted by non-mercury-containing compounds);

2) Internal and/or effluent sampling utilizing clean and/or ultra-clean sampling and analytical methods as referenced by USEPA Federal Register. Note that the results of such monitoring will not be used for compliance purposes unless performed in accordance with EPA Method 245.1 and collected at the appropriate compliance measurement location.

3) Loading calculations wherein the nondomestic user calculates the total mass of mercury reduced from the sanitary sewer discharge through reagent substitutions, changes in disposal practices and/or other approved MRP strategies implemented.

f) A semiannual report on the status of the mercury reduction efforts. At a minimum, these reports shall:

1) Identify compliance or noncompliance with specific reduction commitments in the MRP;

2) Summarize the analytical, mass-based or other quantifiable demonstrations of mercury reductions performed to date;

3) Provide all applicable analytical data;

4) Provide an evaluation of the effectiveness of actions taken to date;

5) Provide updates to the initial list of mercury-containing compounds discharged to the sanitary sewer; and

6) Propose for approval new strategies and/or modifications to the current MRP to continue and improve mercury reduction efforts.

g) Any other conditions that the control authority deems necessary to ensure that mercury reduction efforts are effective in achieving the goals of this section.

Failure to submit an approvable MRP within 30 days of the required due date shall constitute significant noncompliance in accordance with this section, and will result in publication as a significant violator, in addition to other possible enforcement action.

An MRP may be evaluated for adequacy at any time by the control authority. If such an evaluation determines that the Mercury Reduction Plan is inadequate, or the nondomestic user has not complied with its approved MRP, the nondomestic user will be notified. Failure to comply with the MRP requirement constitutes noncompliance. The control authority will follow its Enforcement Response Plan (ERP) to ensure that corrective actions are taken.

A nondomestic user may request a release from MRP requirements if (i) all samples of the discharge for a period of one year are less than the specified MDL; (ii) the nondomestic user has complied with the minimum monitoring frequency of quarterly sampling events; and (iii) the control authority deems that MRP commitments have been fulfilled sufficiently to ensure continued compliance with the mercury limitation. The control authority shall notify the nondomestic user of any release from MRP requirements in writing.

If the MRP requirement is waived by the control authority, the nondomestic user remains subject to the local limitation for mercury in accordance with the requirements of this section.

Re-discovery of mercury in the nondomestic user discharge subjects said user to the submission of a new MRP, or escalation of enforcement in accordance with the ERP.

(18) Any wastewater containing more of the substances referenced in Table 2, unless permitted by special discharge allocation under Section 29-50.

In addition to the limits in Table 2, any discharge that, in the judgment of the control authority, would contribute a significant amount of these substances, regardless of mg/l concentration, shall be prohibited except by special discharge allocation.

Table 2
Compatible Pollutants

	Daily Maximum mg/l		**Daily Maximum Pounds per Day**
Biochemical Oxygen Demand (BOD)	1,000*	and	40*
Chemical Oxygen Demand (COD)	2,000*	and	80*
Total Suspended Solids (TSS)	1,400*	and	100*
Total Phosphorus (TP)	25*	and	1*
Chlorides	3,200*	and	100*
Grease & Oil (Polar Fraction)	150*	and	5*

* Or as approved by the Michigan EGLE in accordance with the control authority's approved procedures, with any change in such approved amounts being effective upon publication by the control authority in a daily newspaper of general circulation in the Holland area.

The control authority reserves the right to use COD sampling and testing for BOD special discharge allocations (see Section 29-50) and surcharges (see Section 29-51). In the event that COD is used for this purpose, the conversion to BOD shall be based on a site-specific COD/BOD ratio. The ratio used for this purpose shall be calculated based on a short-term demonstration using a minimum of five samples. The demonstration shall be performed at least every 24 months to check for any changes in the site-specific COD/BOD ratio.

(c) Dental amalgam.

(1) In accordance with MCLA § 333.16631 of Act 368 and the provisions of the Michigan Administrative Code, this section applies to a dentist who uses dental amalgam and to a dentist who removes dental amalgam. This section does not apply to any of the following:

a. Oral and maxillofacial surgeons.

b. Oral and maxillofacial radiologists.

c. Oral pathologists.

d. Orthodontists.

e. Periodontists.

f. Dentists providing services in a dental school, in a hospital, or through a local health department.

g. Dentists who install and use a holding tank and do not discharge amalgam waste.

(2) On or before December 21, 2013, a dentist shall install, or shall have installed, an amalgam separator on each wastewater drain in his or her dental office that is used to discharge dental amalgam waste. A dentist who is required to install an amalgam separator shall comply with all of the following pursuant to Michigan Administrative Code R 338.11811:

a. Install an amalgam separator that meets the requirements of Michigan Administrative Code R 338.11813.

b. Install, operate, and maintain the amalgam separator according to the manufacturer's instructions.

c. Ensure the installed amalgam separator is properly sized to accommodate maximum dental amalgam wastewater flow rates at the dental office. The maximum allowable flow rate through an amalgam separator at a dental office shall not exceed the maximum flow rate capacity at which the amalgam separator was tested under Michigan Administrative Code R 338.11813(1)(a).

d. Ensure that all wastewater from the dental office containing dental amalgam waste passes through an installed and properly functioning and maintained amalgam separator before being discharged.

(3) A dentist who is subject to the provisions of Michigan Administrative Code R 338.11811 shall maintain records at his or her dental office that include all of the following:

a. Type of amalgam separator installed, including the manufacturer and model.

b. Date the amalgam separator became operational.

c. Documentation verifying the amalgam separator meets the requirements of Michigan Administrative Code R 338.11813.

d. Documentation of the manufacturer's instructions for the operation and maintenance of the amalgam separator.

e. Service records for each amalgam separator in use at the dental office that includes the following:

a) Dates of maintenance.

b) Dates separator contents were recycled.

c) Name of the staff or contractor performing the service.

f. Documentation verifying that the dentist disposed of and recycled any dental amalgam waste that was generated from the individual's dental office consistent with the requirements of Michigan Administrative Code R 338.11815 and R 338.11817(1)(f). The documentation shall be in accordance with R 338.11813(1)(f).

(4) The records required under Section 29-49(c)(3) shall be provided upon request to the control authority.

(5) All records required under Section 29-49(c)(3) of this rule shall be retained for a minimum of three years.

Sec. 29-50. Special discharge allocation. [Ord. No. 1323, 12-5-2001; Ord. No. 1516, 9-3-2008; Ord. No. 1570, 11-2-2011; amended 12-4-2019 by Ord. No. 1776]

A nondomestic user (user) may, at the time of application for a wastewater discharge permit, or by a special discharge allocation permit application, request that the uniform concentration limits for BOD or COD, TSS, phosphorus, and grease and oil (polar fraction) be increased above concentrations listed in Table 2 (Section 29-49) for that permit. Such special discharge allocation shall be expressed as total daily pounds of pollutant discharged. A user's special discharge allocation shall be determined using rules and regulations established by the control authority and in accordance with procedures approved by the EGLE. The rules and regulations of the control authority shall be available for inspection at 42 South River Avenue, Holland, Michigan 49423, and shall be posted on the website of the BPW.

The control authority reserves the right to reduce or deny special discharge allocations if total pollutant discharges near or reach the MAHLs set forth in Table 3. The control authority reserves the right to amend the MAHLs set forth in Table 3 at its discretion. The special discharge allocation must not result in the POTW (including the collection system) receiving pollutants in excess of its ability to convey or treat.

A user which requests a special discharge allocation through the permit application process must sign a written acknowledgment whereby the user consents to comply with all terms and conditions which may be imposed by the control authority. Such acknowledgement shall be in a form provided by the control authority, and must be executed by an authorized representative of the user and be received by the control authority before any special discharge allocation is effective. The user shall be charged for the special discharge allocation as determined by the adopted rate schedule. Notwithstanding the foregoing, payment of the plant capacity portion of the surcharge rate shall not confer any right to any particular amount of capacity in future periods. In addition, the control authority reserves the right to institute a review of any previously permitted special discharge allocation at any time, pursuant to which the control authority, in its discretion, upon notice and the opportunity for hearing,

may reduce or eliminate a user's previously permitted or approved special discharge allocation (including, in particular, but not limited to, any allocation amount for which a user has previously paid the physical plant capacity component of the surcharge but not the operation and maintenance component of the surcharge).

Any discharge in excess of the amount permitted by the special discharge allocation is prohibited and is therefore a violation of Section 29-49 and the user's wastewater discharge permit. In addition, a user shall pay the full surcharge rate (the plant capacity component and the operation and maintenance component) for any amount discharged in excess of the amount permitted by a special discharge allocation.

EGLE

Table 3	
Maximum Allowable Headworks Loading (MAHL)	
	Pounds per Day
Biochemical Oxygen Demand (BOD)	57,900*
Chemical Oxygen Demand (COD)	115,800**
Total Suspended Solids	50,000*
Total Phosphorus	830*
Grease & Oil (Polar Fraction)	5,451*

* Or the maximum pounds approved by the EGLE in accordance with the control authority's approved procedures, with any change in such approved amounts being effective upon publication by the control authority in a daily newspaper of general circulation in the Holland area.

** The MAHL for COD is calculated using the historical influent COD/BOD ratio of 2:1.

Sec. 29-51. Surcharges. [Ord. No. 1323, 12-5-2001; Ord. No. 1516, 9-3-2008]

All nondomestic users of the POTW shall pay a surcharge for the discharge of sewage or waste containing more of the pollutant as referenced in Table 4, with the exception that a surcharge can be made for either BOD_5 or COD, whichever is the greater dollar cost, but not for both.

Table 4	
Pollutant	**Surcharge Above**
BOD_5	250 mg/l
COD	500 mg/l
Total suspended solids	250 mg/l
Phosphorus	5 mg/l

Table 4	
Pollutant	**Surcharge Above**
Grease and oil (polar fraction)	50 mg/l*

* Surcharges for grease and oil (polar fraction) will be applied only if a user has received a special discharge allocation for grease and oil (polar fraction). Any users discharging above 50 mg/l may be required to submit grease trap maintenance records.

Surcharge rates shall be established periodically by the control authority. To determine the amount of the surcharge for any particular user, the control authority shall collect samples at a predetermined frequency and apply the surcharge rate to the analytical results of such samples. In the alternative, with the prior approval of the control authority, the user may utilize an independent company to take such samples, at the user's expense, under conditions and standards determined to be acceptable by the control authority. The surcharge shall be calculated and billed at a frequency determined by the control authority. Any surcharge billing not paid when due shall be a violation of this chapter.

Sec. 29-52. Pretreatment requirements. [Ord. No. 1323, 12-5-2001; Ord. No. 1516, 9-3-2008]

(a) Industrial users shall provide necessary wastewater treatment as required to comply with the most stringent requirement of this chapter, or federal pretreatment standards as established by 40 CFR Chapter N, Subpart I, or state standards or wastewater discharge permit conditions, and shall achieve compliance with all National Categorical Pretreatment Standards within the time limitations as specified by the federal pretreatment regulations, and with any other pretreatment standards by applicable deadlines.

(b) Any facilities required to pretreat wastewater shall be provided, operated, and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the control authority for review, and shall be approved by the control authority before construction of the facility. The review and approval of plans and operating procedures does not relieve the industrial user from complying with the provisions of this chapter and wastewater discharge permit conditions. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and approved by the control authority prior to the industrial user's initiation of the changes.

Sec. 29-53. Dilution prohibition. [Ord. No. 1323, 12-5-2001; Ord. No. 1516, 9-3-2008]

No user shall increase the use of process water, or in any other way attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with concentration limitations as established herein or any pretreatment standard or requirement.

Sec. 29-54. Spill prevention and slug control plans. [Ord. No. 1323, 12-5-2001; Ord. No. 1516, 9-3-2008]

(a) Nondomestic users shall provide protection from accidental discharge of materials which may interfere with the POTW by developing spill prevention plans. Facilities necessary to implement these plans shall be provided and maintained at the owner's or user's expense. Spill prevention plans, including the facilities and the operating procedures shall be approved by the control authority before construction of the facility.

(b) Nondomestic users that store hazardous substances shall not contribute to the POTW after the effective date of this chapter unless a spill prevention plan has been approved by the control authority. Approval of such plans shall not relieve the user from complying with all other laws and regulations governing the use, storage, and transportation of hazardous substances.

(1) The control authority shall evaluate all new SIUs for the need for a slug control plan within a year of the industrial user being designated as a SIU. Each significant industrial user shall be evaluated at least once every two years, and other nondomestic users as necessary, to determine whether such user needs a plan to control slug discharges. If the control authority decides that a slug control plan is needed, the plan shall contain, at a minimum, the following elements:

a. Description of discharge practices, including nonroutine batch discharges;

b. Description of stored chemicals;

c. Procedures for immediately notifying the POTW of slug discharges, including any discharge that would violate a prohibition under Section 29-49, with procedures for follow-up written notification within five days;

d. If necessary, procedures to prevent adverse impact from accidental spills, including inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of industrial site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and/or measures and equipment for emergency response.

Sec. 29-55. Notification. [Ord. No. 1323, 12-5-2001; Ord. No. 1516, 9-3-2008]

(a) Notification of discharge violation.

(1) In the case of any discharge in violation of this chapter or wastewater discharge permit conditions, and in the case of any discharge that could cause problems to the POTW, including any slug discharges, as defined by Section 29-3 of this chapter, the user shall immediately notify the control authority of the discharge by telephone. The notification shall include:

a. The date, time, location and duration of the discharge;

b. The type of waste including concentration and volume; and

c. Any corrective actions taken by the user.

(2) Within five days following such a discharge the user shall submit a written report describing the cause of the discharge and the measures that will be taken by the user to prevent similar future discharges.

(3) Such notification shall not relieve the user of any expense, loss, damage, or other liability resulting from the discharge, nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed under this chapter or other applicable state or federal law.

(b) Notification of changed discharge. The user shall notify the control authority prior to the introduction of new wastewater or pollutants or any significant change in sewer use or characteristic of the wastewater being introduced into the POTW from the user's processes. Formal written notification shall be submitted prior to such an introduction. Significant change in sewer use is defined as an increase in the concentrations of pollutants discharged of 20% over those reported on the wastewater discharge disclosure report, or the increase in discharge volume of 1,000 gallons/day or more than 10% over that reported on the baseline monitoring report/wastewater discharge disclosure report, whichever is less.

Any change which would violate categorical pretreatment standards or local limits is prohibited.

(c) Significant industrial users are required to notify the control authority immediately of any changes at its facility affecting the potential for a slug discharge.

Sec. 29-56. Posting of emergency notification number; employee training. [Ord. No. 1323, 12-5-2001; Ord. No. 1516, 9-3-2008]

Each nondomestic user shall permanently post a notice in a prominent place advising all employees to call the POTW, at the number supplied on the wastewater discharge permit, in the event of a dangerous discharge for which notification is required. Employers shall advise all employees who may cause or be injured by such a discharge of the emergency notification procedure.

Sec. 29-57. Records. [Ord. No. 1323, 12-5-2001; Ord. No. 1516, 9-3-2008]

(a) Users subject to the reporting requirements of this chapter shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this chapter, any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements, and documentation associated with best management practices. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the date analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses.

(b) These records shall remain available for a period of at least three years after their collection.

(c) This period shall be extended during any litigation concerning compliance with this chapter or wastewater discharge permit conditions.

Sec. 29-58. Analytical requirements. [Ord. No. 1323, 12-5-2001; Ord. No. 1516, 9-3-2008]

All analyses, including sampling results submitted in support of any application reports, evidence or required by any permit or order shall be performed in accordance with the procedures and methods outlined in Section 29-80.2.

The sample shall be representative of daily operations. Where the standard requires compliance with a BMP or pollution prevention alternative, the user shall submit documentation as required by the control authority or the applicable standards to determine compliance with the standard.

Sec. 29-59. Confidential information. [Ord. No. 1323, 12-5-2001; Ord. No. 1516, 9-3-2008]

(a) Information and data (other than effluent data) about a user obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspections shall be available to the public unless the user specifically requests and is able to demonstrate to the satisfaction of the control authority in accordance with state and federal disclosure statutes that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the user. Any such request must be asserted at the time of submission of the information or data. When such a confidentiality claim is asserted, the information shall be treated as such until a determination is made by the control authority. Effluent data shall be available to the public without restriction.

(b) When the person furnishing a report satisfies the control authority that such person has made the demonstration required by Subsection (a), the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection except by the state or EPA for uses related to this chapter, the NPDES permit, or the pretreatment program. Confidential portions of a report shall be available for use by the state or EPA in judicial review or enforcement proceedings involving the person furnishing the report. Effluent data will not be recognized as confidential information.

Sec. 29-60. Right of entry. [Ord. No. 1323, 12-5-2001; Ord. No. 1516, 9-3-2008]

Representatives of the control authority, the state and EPA, upon showing proper identification shall have the right to enter and inspect the premises of any user who may be subject to the requirements of this chapter. Nondomestic users shall allow authorized representatives of the control authority, state and EPA access to all premises for the purpose of inspecting, sampling, examining records or seize for purposes of copying records in the performance of their duties. Authorized representatives of the control authority, state and EPA shall have the right to place on the user's property such devices as are necessary to conduct sampling and monitoring. Where a user has security or safety measures in force which would require clearance, training, or wearing of special protective gear, the user shall make necessary arrangements at its own expense, to enable authorized representatives of the control authority, state and EPA to enter and inspect the premises as guaranteed by this paragraph.

Sec. 29-61. Existing and new source compliance deadlines. [Ord. No. 1323, 12-5-2001; Ord. No. 1516, 9-3-2008]

Compliance by existing sources with categorical pretreatment standards shall be within three years of the date the standard is effective unless a shorter compliance time is specified in the appropriate subpart of 40 CFR Chapter I, Subchapter N. Direct dischargers with NPDES permits modified or reissued to provide a variance pursuant to Section 301(i)(2) of the Act shall be required to meet compliance dates set in any applicable categorical pretreatment standard. Existing sources which become significant industrial users subsequent to promulgation of an applicable pretreatment standard shall be considered existing significant industrial users except where such sources meet the definition of a new source as defined in 40 CFR 403.3(k). New sources shall install and have in operating condition and shall "start-up" all pollution control equipment required to meet applicable pretreatment standards before beginning to discharge. Within the shortest feasible time (not to exceed 90 days), new sources must meet all applicable pretreatment standards.

Sec. 29-62. Equivalent mass and concentration limits. [Ord. No. 1323, 12-5-2001; Ord. No. 1516, 9-3-2008]

When the limits in a categorical pretreatment standard are expressed only in terms of mass of pollutant per unit of production, the control authority may convert the limits to equivalent limitations expressed either as mass of pollutant discharged per day or effluent concentration for purposes of calculating effluent limitations applicable to individual industrial users.

Equivalent limitations calculated in accordance with 40 CFR 403.6(c)(3) and (c)(4) shall be deemed pretreatment standards for the purposes of Section 307(d) of the Act and Title 40, Part 403 of the Code of Federal Regulations. Industrial users will be required to comply with the equivalent limitations in lieu of the promulgated categorical pretreatment standards from which the equivalent limitations were derived.

40 CFR 403.6(c)(6) and (c)(7) shall apply to those industrial users for whom equivalent mass or concentration limits are calculated.

Sec. 29-63. Net/gross calculation. [Ord. No. 1323, 12-5-2001; Ord. No. 1516, 9-3-2008]

Categorical pretreatment standards may be adjusted to reflect the presence of pollutants in the industrial user's intake water in accordance with 40 CFR 403.15.

Sec. 29-64. Removal credits. [Ord. No. 1323, 12-5-2001; Ord. No. 1516, 9-3-2008]

The control authority may at its discretion and subject to the conditions of 40 CFR 403.7, grant removal credits to reflect removal by the POTW of pollutants specified in the categorical pretreatment standard(s).

Sec. 29-65. Improper use of sewers; discontinuance of service. [Ord. No. 1323, 12-5-2001; Ord. No. 1516, 9-3-2008]

The BPW is authorized to inspect any existing building service sewer and drain, lateral or collecting sewers that discharge wastewater directly or indirectly to the POTW. If it is found that such lateral or collecting sewers are used or maintained in such a way as to cause discharge of septic wastewater or groundwater or debris which exceeds the design criteria of said sewer or any other substance deemed objectionable, the BPW will give notice of the unsatisfactory condition to the person responsible for such discharge and shall direct that the condition be corrected.

In cases of noncompliance continuing after such directive, the BPW, in its discretion, may discontinue service to persons responsible for such discharge.

Sec. 29-66. Indemnification for additional sewer maintenance expenses. [Ord. No. 1323, 12-5-2001; Ord. No. 1516, 9-3-2008]

No person shall discharge or cause to be discharged to a sanitary sewer, either directly or indirectly, any nondomestic waste that creates a stoppage, plugging, breakage, reduction in sewer capacity or any other damage or loss to any public sewer, the POTW or the control authority. The person causing such discharge shall indemnify the BPW or control authority for any additional sewer maintenance expenses, or any other resulting costs or expenses, including attorney fees, caused by such a discharge.

Sec. 29-67. Accidental discharges. [Ord. No. 1323, 12-5-2001; Ord. No. 1516, 9-3-2008]

Every user of the POTW shall provide, when deemed necessary by the control authority, protection from accidental discharge into the sewage system of nondomestic wastes or liquid materials not meeting the requirements of Section 29-49 or other nondomestic wastes.

DIVISION 2
Administration

Sec. 29-68. Wastewater discharge permits. [Ord. No. 1323, 12-5-2001; Ord. No. 1516, 9-3-2008]

(a) When a wastewater discharge permit is required. The control authority may, in its discretion, require that an existing potential nondomestic user procure and maintain in effect a wastewater discharge permit, issued by the control authority, as a condition precedent to making any discharge to the POTW. The control authority may require an existing or potential user to obtain a wastewater discharge permit whenever it shall reasonably determine that the user is an SIU or MIU as defined in Section 29-3 of this chapter.

(b) Permit application. Users required to obtain a wastewater discharge permit shall complete and file with the control authority, an application in the form prescribed by the control authority, and accompanied by a fee as required in Section 29-11. Proposed new nondomestic users shall apply for a wastewater discharge permit at least 90 days

prior to connecting to or contributing to the POTW. In support of the application, the user shall submit, in units and terms appropriate for evaluation, the following information:

(1) Name, address, and location (if different from the address) and name of owners and operator;

(2) Standard industrial classification (SIC) code of both the industry as a whole and any process for which categorical pretreatment standards have been promulgated.

(3) Wastewater constituents and characteristics including but not limited to those mentioned in Section 29-49 of this chapter as determined by a reliable analytical laboratory; sampling and analysis shall be performed in accordance with procedures established by the EPA pursuant to Section 304(g) of the Act and contained in 40 CFR, Part 136, as amended;

(4) Time and duration of discharge;

(5) Daily maximum, daily average, and monthly average wastewater flow rates, including daily, monthly and seasonal variations if any;

(6) Site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connections, and appurtenances by the size, location and elevation and a current water use schematic;

(7) Description of activities, facilities and industrial processes on the premises including all materials which are or could be discharged;

(8) The nature and concentration of any pollutants in the discharge which are limited by any City, state, or federal pretreatment requirements and a statement signed by an authorized representative of the user regarding whether or not the pretreatment standards are being met on a consistent basis and if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required for the user to meet applicable pretreatment standards;

(9) If additional pretreatment and/or O&M will be required to meet the pretreatment standards; the shortest schedule by which the user will provide such additional pretreatment. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. The following conditions shall apply to this schedule:

a. The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.).

b. No increment referred to in Paragraph (a) shall exceed nine months.

c. Not later than 14 days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the control

authority including, as a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the user to return the construction to the schedule established. In no event shall more than nine months elapse between such progress reports to the control authority.

(10) Each product and/or by-product produced by type, amount, process or processes and rate of production;

(11) Type and amount of raw materials processed (average and maximum per day);

(12) Number and type of employees, and hours of operation of facility and proposed or actual hours of operation of pretreatment system;

(13) List of any environmental control permits held by or for the facility;

(14) Any other information as may be deemed by the control authority to be necessary to evaluate the wastewater discharge permit application.

The control authority will evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, the control authority may issue a wastewater discharge permit subject to terms and conditions provided herein.

DIVISION 3
Wastewater Discharge Permit Requirements

Sec. 29-69. Permit contents. [Ord. No. 1323, 12-5-2001; Ord. No. 1516, 9-3-2008]

Wastewater discharge permits shall contain, as appropriate, the following:

(a) Statement of duration (not greater than five years) including issuance and expiration dates;

(b) Effluent limitations based on the more stringent of categorical pretreatment standards, local limits as established by this chapter, state and local law or the combined waste stream formula as outlined in 40 CFR 403.6(e);

(c) General and specific discharge prohibitions as established by Section 29-49 of this chapter;

(d) Requirements to pay fees for the wastewater to be discharged to the POTW;

(e) Limitations on the average and maximum rate and time of discharge or requirements for flow regulation and equalization, including the maximum monthly flow which shall be permitted by a user;

(f) Requirements for installation and maintenance of inspection and sampling facilities;

(g) Requirements and specifications for monitoring programs including sampling locations, frequency of sampling, number, types and standards for tests and reporting schedule;

(h) Compliance schedules;

(i) Requirements for submission of technical reports, discharge reports or certification statements. These include any reporting requirements contained in a National Categorical Pretreatment Standard or pretreatment requirement;

(j) Requirements for collecting/retaining and providing access to facility records relating to the user's discharge and for providing entry for sampling and inspection;

(k) Requirements for notification of any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater treatment system;

(l) Requirements for notification of spills, potential problems to the POTW including slug loadings, upsets or violations;

(m) Requirements for installation, operation and maintenance of pollution control equipment;

(n) Requirements to develop and implement spill and slug control plans;

(o) Other conditions as deemed appropriate by the control authority to ensure compliance with this chapter, state and federal pretreatment standards and requirements including a requirement that the user shall deliver to the control authority a copy of the permit which is acknowledged, agreed to and executed by an authorized representative of the user in order for the permit to be effective;

(p) Statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements;

(q) Statement of nontransferability;

(r) Conditions for modification or revocation of permit.

Sec. 29-70. Permits duration. [Ord. No. 1323, 12-5-2001; Ord. No. 1516, 9-3-2008]

Wastewater discharge permits shall be issued for a specified time period, not to exceed five years. The user shall apply for permit reissuance at least 180 days prior to the expiration of the user's existing permit.

Sec. 29-71. Permit modifications. [Ord. No. 1323, 12-5-2001; Ord. No. 1516, 9-3-2008]

Within nine months of the promulgation of a National Categorical Pretreatment Standard, the wastewater discharge permit of users subject to such standards shall be revised to require compliance with such standard within the time frame prescribed by such standard. Where a user, subject to a National Categorical Pretreatment Standard, has not previously submitted an application for a wastewater discharge permit as required by Section 29-68, the user shall apply for a wastewater discharge permit within 180 days after the promulgation of the applicable National Categorical Pretreatment Standard. In addition, the user with an existing wastewater discharge permit shall submit to the control authority within 180 days after the promulgation of an applicable federal categorical pretreatment standard the information required by Paragraph (b)(8) and (9) of Section 29-68.

Sec. 29-72. Permit transfer. [Ord. No. 1323, 12-5-2001; Ord. No. 1516, 9-3-2008]

Wastewater discharge permits are issued to a specific process or operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, new user, different premises or a new or changed operation without prior approval of the control authority.

Sec. 29-73. Wastewater discharge permit appeals. [Ord. No. 1323, 12-5-2001; Ord. No. 1516, 9-3-2008]

Any aggrieved person, including a nondomestic user, may petition the administrative committee to reconsider the terms of a wastewater discharge permit ("permit") within 30 days of the permit issuance.

(a) Failure to file a timely petition for review of the permit issuance shall be deemed a waiver of any and all administrative appeal rights.

(b) In the appeal petition, the appealing party shall indicate those portions of the permit objected to; the reasons for the objection; and any alternative conditions, if any, the applicant seeks to establish in the permit.

(c) During the pendency of the appeal, all terms and conditions of the newly issued permit, which are not contested, shall remain in full force and effect. During the pendency of the appeal and until a final administrative determination by the administrative committee, the prior permit requirements shall apply to any contested portions.

(d) The administrative committee shall deny the appeal; grant the appeal; or grant the appeal with conditions within 30 days of the appeal request. The administrative committee may table the additional appeal request within the thirty-day period to request additional information from the applicant. The decision of the administrative committee shall be final administrative action for purposes of judicial review.

Sec. 29-74. Monitoring. [Ord. No. 1323, 12-5-2001; Ord. No. 1516, 9-3-2008]

(a) Nondomestic users shall provide and maintain in safe and proper condition, at their own expense, facilities to allow the authorized representatives of the control authority, EPA or the state to inspect, sample, or measure flows from wastewater subject to this chapter.

(b) There shall be ample room in or near facilities to allow accurate sampling and preparation of samples for analysis.

(c) If locating such facilities on a user's property would be impractical, the user may apply to the City for a right-of-way or for permission to construct on public property.

(d) The control authority may require a suitable control manhole located on the nondomestic user's premises, which shall be installed on the building sewer when deemed necessary by the control authority. When such a location would be impractical or cause undue hardship on the user, the City may allow such facility to be constructed in the public right-of-way, with the approval of the public agency having jurisdiction over such right-of-way, and located so that it will not be obstructed by public utilities,

landscaping or parked vehicles. The manhole shall be installed by the owner at his or her expense, and shall be maintained by him or her to be safe and accessible at all times.

Whether constructed on public or private property, the control manhole shall be constructed in accordance with the control authority's requirements and all applicable construction standards and specifications.

When more than one user can discharge into a common sewer, the control authority may require installation of separate monitoring equipment and control manhole for each user. When there is a significant difference in wastewater constituents and characteristics produced by different operations of a single user, the control authority may require that separate monitoring facilities be installed for each separate discharge.

Sec. 29-75. Bypass. [Ord. No. 1323, 12-5-2001; Ord. No. 1516, 9-3-2008]

(a) Bypass not violating applicable pretreatment standards or requirements. A nondomestic user may allow any bypass to occur which does not violate pretreatment standards or requirements, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to (b) and (c) hereafter.

(b) Notice.

(1) If a nondomestic user knows in advance of the need for a bypass, it shall submit prior notice to the superintendent, if possible at least 10 days before the date of the bypass.

(2) A nondomestic user shall orally notify the superintendent of an unanticipated bypass that exceeds applicable pretreatment standards or requirements within 24 hours of becoming aware of the bypass. A written submission shall also be provided within five days of becoming aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact times and dates, and if the bypass has not been corrected, the anticipated time it is expected to continue and steps taken or planned to reduce, eliminate, and prevent recurrence of the bypass.

(c) Prohibition of bypass.

(1) A bypass is prohibited and the control authority may take enforcement action against an individual user for a bypass, unless:

a. The bypass was unavoidable to prevent loss of life, personal injury or severe property damage;

b. There are no feasible alternatives to bypass, such as use of auxiliary treatment facilities, retention of wastes or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate backup equipment should have been installed to prevent bypass which occurred during normal periods of equipment downtime or preventative maintenance;

c. The user submitted notices as required by Paragraph (b) of this section.

(2) The control authority may approve an anticipated bypass, after considering its adverse effects, if the control authority determines that it will meet the three conditions listed in Paragraph (c)(1) of this section. However, such approval does not limit cost recovery by or indemnification of the control authority.

Sec. 29-76. Upset provisions. [Ord. No. 1323, 12-5-2001; Ord. No. 1516, 9-3-2008]

(a) An upset shall constitute an affirmative defense to an action brought for noncompliance with pretreatment standards if the requirements of Paragraph (b) are met.

(b) A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

(1) An upset occurred and the user can identify the cause(s) of the upset;

(2) The facility was at the time being operated in a prudent and workmanlike manner and in compliance with applicable operation and maintenance procedures.

(3) The user has submitted the following information to the superintendent and control authority within 24 hours of becoming aware of the upset (if this information is provided orally, a written submission must be provided within five days):

a. A description of the discharge and cause of noncompliance;

b. The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue;

c. Steps being taken and/or planned to reduce, eliminate and prevent recurrence of the noncompliance.

(c) In any enforcement proceeding the industrial user seeking to establish the occurrence of an upset shall have the burden of proof.

(d) In the usual exercise of prosecutorial discretion, control authority enforcement personnel should review any claims that noncompliance was caused by an upset. No determinations made in the course of the review constitute final control authority action subject to judicial review. Users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.

(e) A nondomestic user shall control production and all discharges to the extent necessary to maintain compliance with pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost or fails. This may not be a defense against cost recovery by or indemnification of the control authority.

DIVISION 4

Reporting

Sec. 29-77. Baseline report (for categorical dischargers only). [Ord. No. 1323, 12-5-2001; Ord. No. 1516, 9-3-2008]

(a) Users subject to National Categorical Pretreatment Standards shall submit baseline reports to the control authority on a form prescribed and furnished by the control authority.

(b) Within 180 days after the effective date of a National Categorical Pretreatment Standard, or 180 days after a final administrative decision has been made upon a categorical determination submission in accordance with 40 CFR 403.6(a)(4), whichever is later, nondomestic users which are existing sources subject to such National Categorical Pretreatment Standards and currently discharging to the POTW shall submit a properly completed baseline report.

(c) New sources, when subject to a National Categorical Pretreatment Standard, shall submit a baseline report at least 90 days prior to commencement of discharge to the POTW.

(d) In support of the baseline report, the nondomestic user shall submit, in units and terms specified in the application, the following information:

(1) Name and address of the facility including the name of the operator and owners.

(2) List of any environmental control permits held by or for the facility.

(3) Brief description of the nature, average rate of production, and standard industrial classification of the operation(s) carried out by such user. This description shall include a schematic process diagram indicating points of discharge to the POTW from the regulated processes.

(4) Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from each of the following:

a. Regulated process streams, and

b. Other streams as necessary to allow use of the combined waste stream formula of 40 CFR 403.6(e).

(5) The nondomestic user shall identify the National Categorical Pretreatment Standards applicable to each regulated process, and shall:

a. Submit the results of sampling and analysis identifying the nature and concentration of regulated pollutants in the discharge from each regulated process. Both daily maximum and average concentrations shall be reported. The sample shall be representative of daily operations.

b. A minimum of four grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organics. For all other pollutants, twenty-four-hour composite samples must be obtained through flow proportional composite sampling techniques where feasible. The

control authority may waive flow-proportional composite sampling for any industrial user that demonstrates that flow-proportional sampling is infeasible. In such cases samples may be obtained through time-proportional composite sampling techniques or through a minimum of four grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged.

c. A nondomestic user shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this paragraph.

d. Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment the user should measure the flows and concentrations necessary to allow use of the combined waste stream formula of 40 CFR 403.6(e) in order to evaluate compliance with the pretreatment standards. Where an alternate concentration or mass limit has been calculated in accordance with 40 CFR 403.6(e) this adjusted limit along with supporting data shall be submitted to the control authority.

(6) A nondomestic user shall provide a statement, reviewed by an authorized representative of the user, indicating whether National Categorical Pretreatment Standards are being met on a consistent basis and, if not, whether additional operation and maintenance (O&M) measures or additional pretreatment is required for the user to meet the National Categorical Pretreatment Standards.

(7) If additional pretreatment or O&M will be required to meet the National Categorical Pretreatment Standards, the user will provide the shortest schedule which will provide such additional pretreatment or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable National Categorical Pretreatment Standard, or as follows:

a. Where the user's National Categorical Pretreatment Standard has been modified by a removal allowance (40 CFR 403.7) or the combined waste stream formula [[40 CFR 403.6(e)], or net/gross calculations (40 CFR 403.15), at the time the user submits a baseline report containing the information required in Section 29-77(d)(6) and (7) shall pertain to the modified limits.

b. If the National Categorical Pretreatment Standard for the user is modified after the baseline report is submitted, the industrial user shall make any necessary amendments to information provided as a response to Section 29-77(d)(6) and (7) and submit them to the control authority within 60 days after the modified limit is approved.

(8) The following conditions shall apply to any schedule submitted in response to Section 29-77(d)(7):

a. The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user

to meet the applicable National Categorical Pretreatment Standards (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.).

b. No increment referred to in Section 29-77(d)(8)a. shall exceed nine months.

c. Not later than 14 days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the control authority including, at a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the industrial user to return the construction to the schedule established. In no event shall more than nine months elapse between such progress reports to the control authority.

(9) Such other information as may be reasonably requested by the control authority.

(e) The control authority may allow the submission of a baseline report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures.

Sec. 29-78. Compliance date report. [Ord. No. 1323, 12-5-2001; Ord. No. 1516, 9-3-2008]

Within 90 days following the date for final compliance with applicable categorical pretreatment standards or, in the case of a new source, following commencement of the introduction of wastewater into the POTW, any user subject to categorical pretreatment standards shall submit to the control authority a report indicating the nature and concentration of all pollutants in the discharge from the regulated process which are limited by such standards and the average and maximum daily flow for these process units in the user facility which are limited by such pretreatment standards or requirements. Where equivalent mass or concentration limits are established by the control authority for a user, this report shall contain a reasonable measure of the user's long-term production rate. Where a user is subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production, the report shall include the user's actual production during the appropriate sampling period. The report shall state whether the applicable pretreatment standards are being met on a consistent basis and, if not, what additional O&M and/or pretreatment is necessary to bring the user into compliance with the applicable pretreatment standards. This statement shall be signed by an authorized representative of the user.

Sec. 29-79. Periodic compliance reports. [Ord. No. 1323, 12-5-2001; Ord. No. 1516, 9-3-2008]

(a) Any user subject to a categorical pretreatment standard, after the compliance date of such pretreatment standard, or, in the case of a new source, after commencement of the discharge into the POTW, shall submit to the control authority during the months of June and December, unless required more frequently in the pretreatment standard or by the control authority, a report indicating the nature and concentration of pollutants in the effluent which are limited by such pretreatment standards. In addition, this report

shall include a record of all daily flows which during the reporting period exceeded the average daily flow reported in Section 29-77(d)(4). At the discretion of the control authority and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the control authority may agree to alter the months during which the above reports are to be submitted.

(b) The control authority may impose mass limitations on users which are using dilution to meet applicable pretreatment standards or requirements, or in other cases where the imposition of mass limitations are appropriate. In such cases, the report required by Paragraph (a) of this section shall indicate the mass of pollutants regulated by pretreatment standards in the effluent of the user. These reports shall contain the results of sampling and analysis of the discharge, including the flow and the nature and concentration, or production and mass where requested by the control authority, of pollutants contained therein which are limited by the applicable pretreatment standards.

(c) For users subject to equivalent mass or concentration limits established by the control authority in accordance with the procedures in 40 CFR 403.6(c), the report required by Section 29-79(a) shall contain a reasonable measure of the user's long-term production rate. For all other industrial users subject to categorical pretreatment standards expressed only in terms of allowable pollutant discharge per unit of production (or other measure of operation), the report required by Section 29-79(a) shall include the user's actual average production rate for the reporting period.

(d) Significant noncategorical industrial users shall submit to the control authority at least once every six months (on dates specified by the control authority) a description of the nature, concentration, and flow of the pollutants required to be reported by the control authority. In cases where the pretreatment standard requires compliance with a best management practice (BMP) or pollution prevention alternative, the user must submit documentation required by the superintendent or the pretreatment standard necessary to determine the compliance status of the user.

Sec. 29-80.1. Self-monitoring. [Ord. No. 1516, 9-3-2008]

The control authority may require industrial users to conduct self-monitoring. The control authority shall determine the frequency of self-monitoring necessary to assess and assure compliance by the industrial user with applicable pretreatment standards and requirements. The control authority may require the industrial user to provide a split of self-monitoring samples. The control authority shall require appropriate reporting from industrial users required to conduct self-monitoring.

Sec. 29-80.2. Sampling and analysis procedures and methods. [Ord. No. 1516, 9-3-2008]

All sampling and analyses conducted shall be performed in accordance with the procedures and methods detailed in the most current version of:

(1) "The Guidelines Establishing Test Procedures for the Analysis of Pollutants" 40 CFR, part 136, as amended.

(2) "Standard Methods for the Examination of Water and Wastewater," American Public Health Association.

(3) "Manual of Methods for Chemical Analysis of Water and Wastes," United States Environmental Protection Agency.

(4) Any other method as may be approved by the control authority.

Sec. 29-80.3. Laboratory utilized by industry conducting self-monitoring to be approved by control authority; quality control documentation required. [Ord. No. 1516, 9-3-2008]

(a) Each laboratory utilized by industries conducting self-monitoring as required by the control authority shall be approved by the control authority and required to operate a formal quality control program as outlined in the most current version of:

(1) "Handbook for Analytical Quality Control in Water and Wastewater Laboratories," United States Environmental Protection Agency.

(2) "Standard Methods for the Examination of Water and Wastewater," American Public Health Association.

(b) Laboratories conducting analyses for industrial users must submit a copy of the formal quality control documentation prior to approval by the control authority. Approval of laboratories shall be subject to periodic review. The control authority shall have the right to issue blind standards to be analyzed by other laboratories being utilized for self-monitoring. In the case of resolving disputes between analytical data generated by the control authority and another laboratory, any data without documented supporting quality control data will be rejected.

Sec. 29-80.4. Monitoring and analysis in support of self-monitoring requirements. [Ord. No. 1516, 9-3-2008]

(a) The reports required by Sections 29-69, 29-77, 29-78, 29-79, 29-81 and 29-82 shall be based on sampling and analysis performed in the period covered by the report, at the location set forth by the control authority, and performed in accordance with the sampling and analysis procedures as outlined in Section 29-80.2. This sampling and analysis may be performed by the control authority in lieu of the industrial user. Where the control authority itself collects all the information required for the report, the user will not be required to submit the report.

(b) If sampling performed by a user indicates a violation, the user shall notify the superintendent within 24 hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the superintendent within 30 days after becoming aware of the violation, except the user is not required to resample if:

(1) The control authority performs sampling at the industrial user at a frequency of at least once per month, or

(2) The control authority performs sampling at the user between the time when the user performs its initial sampling and the time when the user receives the results of this sampling.

If the control authority performs the sampling for the SIU, the control authority must perform any required repeat sampling and analysis within 30 days of becoming aware of a violation.

(c) The reports required in Paragraph (a) and (d) of Section 29-79 shall be based upon data obtained through appropriate sampling and analysis performed during the period covered by the report, which data is representative of conditions occurring during the reporting period. The control authority shall require that frequency of monitoring necessary to assess and assure compliance by industrial users with applicable pretreatment standards, and requirements.

(d) If an industrial user subject to the reporting requirement in Sections 29-69, 29-77, 29-78, 29-79, 29-81 and 29-82 monitors any pollutant more frequently than required by the control authority, using the procedures prescribed in this section, the results of this monitoring shall be included in the report.

(e) Signatory requirements for industrial user reports. The reports required by Sections 29-77, 29-78, 29-79, 29-81 and 29-82 shall include the certification statement as set forth in 40 CFR 403.6(a)(2)(ii), and shall be signed by an authorized representative.

(f) The reports required in Sections 29-77, 29-78, 29-77(a) and 29-79(d) must be based upon data obtained through appropriate sampling and analysis performed during the period covered by the report, which data are representative of conditions occurring during the reporting period. The control authority shall require that frequency of monitoring necessary to assess and assure compliance by industrial users with applicable pretreatment standards and requirements. Grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organic compounds. For all other pollutants, twenty-four-hour composite samples must be obtained through flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the control authority. Where time-proportional composite sampling or grab sampling is authorized by the control authority, the samples must be representative of the discharge and the decision to allow the alternative sampling must be documented in the industrial user file for that facility or facilities. Using protocols (including appropriate preservation) specified in 40 CFR Part 136 and appropriate EPA guidance, multiple grab samples collected during a twenty-four-hour period may be composited prior to the analysis as follows: For cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organic compounds and oil and grease the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the control authority, as appropriate.

Sec. 29-81. Reporting requirements for significant industrial users. [Ord. No. 1323, 12-5-2001; Ord. No. 1516, 9-3-2008]

Every significant noncategorical industrial user shall submit to the control authority at least once every six months (on date specified by the control authority) a description of the nature, concentration, and flow of the pollutants required to be reported by the control authority. These reports shall be based on sampling and analysis performed in the period covered by the report, and performed in accordance with the techniques describe in 40 CFR Part 136 and

amendments thereto. Where 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the DEQ or control authority determines that the Part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analysis shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures suggested by the control authority or other persons, approved by the DEQ. In cases where the pretreatment standard requires compliance with a best management practice (BMP) or pollution prevention alternative, the user must submit documentation required by the control authority or the pretreatment standard necessary to determine the compliance status of the user. This sampling and analysis may be performed by the control authority in lieu of the significant noncategorical industrial user. Where the control authority itself collects all the information required for the report, the significant noncategorical industrial user will not be required to submit the report.

Sec. 29-82. Reporting requirements for nonsignificant industrial users. [Ord. No. 1323, 12-5-2001; Ord. No. 1516, 9-3-2008]

The control authority may require appropriate reporting from those industrial users with discharges that are not subject to categorical pretreatment standards and are not otherwise deemed by the control authority to be significant.

Sec. 29-83. Hazardous waste notification. [Ord. No. 1323, 12-5-2001; Ord. No. 1516, 9-3-2008]

(a) Any nondomestic user, except as specified in Subsection (e) below, which discharges to the POTW any substance which, if otherwise disposed of, would be a listed or characteristic hazardous waste under 40 CFR Part 261, shall notify the control authority in writing of such discharge.

(b) All hazardous waste notifications shall include:

(1) The name of the hazardous waste as set forth in 40 CFR Part 261;

(2) The EPA hazardous waste number;

(3) The type of discharge (continuous, batch, or other); and

(4) A certification that the user has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

(c) In addition to the information submitted in Section 29-83(b), nondomestic users discharging more than 100 kg of hazardous waste per calendar month to the POTW shall contain to the extent such information is known and readily available to the nondomestic user:

(1) An identification of the hazardous constituents contained in the waste;

(2) An estimation of the mass and concentration of such constituents in the waste stream discharged during that calendar month; and

(3) An estimation of the mass of constituents in the waste stream expected to be discharged during the following 12 months.

(d) Hazardous waste notifications shall be submitted no later than February 19, 1991, except that IUs commencing the discharge of listed or characteristic hazardous wastes after August 23, 1990, shall provide the notification no later than 180 days from the discharge of the wastes. Any notification under this provision need be submitted only once for each hazardous waste discharged, although notifications of changed discharges must also be submitted under Section 29-55(b) of this chapter.

(e) Nondomestic users are exempt from the hazardous waste notification requirement during a calendar month in which they discharge 15 kg or less of nonacute hazardous wastes. Discharge of any quantity of acute hazardous waste as specified in 40 CFR 261.30(d) and 261.33(e) requires a one-time notification.

Sec. 29-84. Signatory requirements. [Ord. No. 1323, 12-5-2001; Ord. No. 1516, 9-3-2008]

The reports required in Sections 29-77, 29-78, 29-79, 29-81 and 29-82 shall include the certification statement as set forth in 40 CFR 403.6(a)(2)(ii) and shall be signed as follows:

(a) By a responsible corporate official, if the industrial user submitting the reports is a corporation. For the purpose of this paragraph, a responsible corporate official means (a) a president, secretary, treasurer, or vice president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision making functions for the corporation, or (b) The manager of one or more manufacturing, production, or operation facilities employing 250 persons or having gross annual sales or expenditures exceeding $25,000,000 (in second quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(b) By a general partner or proprietor if the industrial user submitting the reports is a partnership or sole proprietorship respectively.

(c) By a duly authorized representative of the individual designated in Section 29-84(a) or (b) if:

(1) The authorization is made in writing by the individual described in Section 29-84(a) or (b);

(2) The authorization specifies either an individual or a position having responsibility for the overall operation of the facility from which the industrial discharge originates, such as the position of plant manager, or a position of equivalent responsibility, or having overall responsibility for environmental matters for the company; and

(3) The written authorization is submitted to the control authority.

(d) If an authorization under Section 29-84(c) is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, or overall responsibility for environmental matters for the company, a new authorization satisfying the requirements of Section 29-84(c) must be submitted to the control

authority prior to or together with any reports to be signed by an authorized representative.

ARTICLE V1
Charges for Sewer

Sec. 29-84.1. Charges for sewer. [Ord. No. 1417, 6-15-2005; Ord. No. 1431, 11-2-2005]

The following charges and fees shall apply to all connections to the sanitary sewer system of the City of Holland:

(a) Lateral fee. If a lateral fee has not been paid or assessed against the premises to be served, a lateral fee, in an amount to be established and adjusted from time to time by a resolution of the City Council, for the installation and use of a sewer lateral line from the sewer line to the property line, shall be payable by each premises connecting to the system provided that no lateral fee shall be payable where the sewer lateral to be utilized was constructed as a part of the development or project in which private parties or the City on behalf of or at the expense of private parties have constructed the sewer lateral. The terms of the payment of the sewer lateral fee shall be established and adjusted from time to time by a resolution of the City Council. This resolution shall specify whether the lateral fee is payable in cash in full at the time application to connect is made or in installments. If the lateral fee is payable in installments, such resolution shall specify the number of installments, the amount of each installment, the date on which each installment is due and payable, the interest rate, if any, on the unpaid balance of the lateral fee, when interest begins, and the date on which interest on the unpaid balance is due and payable. If paid in installments, the unpaid balance of the lateral fee and all interest thereon shall constitute a lien on the premises served.

(b) Special assessment. The special assessment procedure as prescribed in Chapter 15 of the City Charter for the construction of sanitary sewer improvements and assessment for sanitary sewer will be followed. A special assessment for sanitary sewer may be authorized by the City; may be accepted upon petition of the property owners; or may be initiated by such other method as specified by City Charter or authorized by law. Following a public hearing and adoption of a resolution of necessity, the project may be authorized by the City Council to proceed. The special assessment placed on the premises shall include the frontage fee and the lateral fee. Notwithstanding the foregoing, the amount of the special assessment shall not exceed the cost of the public improvement as specified by Section 15.9 of the Holland City Charter. The special assessment shall be payable in full or in equal installments as authorized and specified in Chapter 15 of the City Charter. To the extent that an assessment for sanitary sewer does not exceed the cost of the public improvement as required by Chapter 15 of the Charter of the City of Holland, the sanitary sewer special assessment shall be established annually by resolution of the Board of Directors of the Holland Board of Public Works and approved by the City Council. The resolution shall specify whether the frontage charge is payable in cash in full at the time application to connect is made or installments. If the frontage charge is payable in installments, such resolution shall specify the number of installments, the amount of each installment, the date on which each installment is due and payable, the interest rate, if any, on the unpaid balance of

the frontage charge, when interest begins, and the date on which interest on the unpaid balance is due and payable. If paid in installments, the unpaid balance of the frontage charge and all interest and penalties thereon shall constitute a lien on the premises served.

(c) Trunkage charge.

(1) [Provisions regarding charge.] All premises which have not been included in a special assessment district which included a trunkage charge as a part of the assessment shall pay a trunkage charge. Those premises which have previously paid a trunkage charge as a part of a special assessment on a cash or installment basis as provided in this article but later are expanded and the use of the premises is altered so as to increase the amount and intensity of sewer use, shall pay an additional trunkage charge for such increase in sewer use. Those premises which were assessed for trunkage as an unimproved parcel but which are later improved or expanded, resulting in an increase in sewer use, shall pay a trunkage charge for such improvements. The trunkage unit rate shall be calculated based on general system extension costs, which may include, but are not limited to, such items as oversizing, extra depth, nonassessable frontage, lift station, force mains, pump stations, and other costs not included in the special assessment and frontage calculation. The trunkage unit rate shall be established and adjusted from time to time by a resolution adopted by the Holland Board of Public Works and approved by the City Council. The trunkage fee shall be based upon a residential equivalent unit ("REU factor") and applied against the meter size for the proposed or expanded use of the premises. An REU factor will be established for a single-family residential unit. All other types of uses will be calculated based on a schedule of unit factors based upon meter size and using the basic REU rate as the base cost. After initial adoption of the REU rates and factors, the REU rates will be adjusted annually based on the construction cost index as published by the Engineering News Record or such other nationally recognized publication recording costs and inflationary adjustments to cost. The trunkage unit rate shall be the rate in effect on the date the meter is installed to connect to the sewer system. If the premises are already connected to the sewer system, the trunkage unit rate shall be the rate at the time the meter change is made for the expansion or alteration of use.

(2) Private development. Sewer trunkage fees will be the only fee required to be paid for building connections made within the proposed private development. The private party must pay in full all existing assessments and any other charges or assessments prior to sanitary sewer system extensions or connections. Costs incurred by the developer which are normally included in the trunkage fee calculation may be credited against the calculated fees in accordance with the resolution adopted by the Holland Board of Public Works and approved by the City Council.

(3) Single connections. For premises which have not been specially assessed or were not a part of a private development for which assessments, trunkage, and lateral fees have been charged, the cost of connection to sanitary sewer will be determined based upon the rate formula established in the resolution adopted by the Holland Board of Public Works and approved by the City Council. Any

premises which were previously charged under the alternate assessment procedure of the City shall be charged consistent with the terms and conditions of this article. Any previously charged and levied alternate assessments including any ordinances or resolutions thereto are hereby rescinded, revoked, and vacated and, in lieu thereof, all premises will be charged and assessed in accordance with this article. The City Council may choose to permit installment payments of an assessment under those conditions as specified in the resolution adopted by the Holland Board of Public Works and approved by the City Council. The owner of the premises to be served shall sign an agreement with the City stating the amount owed, the interest rate and other payment terms, and that the unpaid charges and all interest and penalties thereon shall constitute a lien on the premises served. If any installment of a lateral fee, frontage charge, trunkage charge, or any interest or penalty thereon is not paid in a timely manner, the City shall have the right to discontinue utility service to the premises and also, if the premises are connected to a sanitary sewer supply, the right to turn off the sanitary sewer to the premises. Sewer service shall not be restored to the premises until all amounts then due and payable are paid in full.

(4) Installment payment of trunkage. The City Council may choose to permit installment payments of trunkage charges under those conditions as specified in a resolution adopted by the Holland Board of Public Works and approved by the City Council. This resolution shall specify whether the trunkage charge may be payable in cash in full when the obligation is incurred, or in installments. The resolution shall specify the number of installments, the amount of each installment, the date on which each installment is due and payable, the interest rate, if any, on the unpaid balance of the trunkage charge, when interest begins, the date on which interest on the unpaid balance is due and payable, and the amount of any administrative fee to be charged by the City for the installment payment agreement. If paid in installments, the unpaid balance of the trunkage charge and all interest and penalties thereon shall constitute a lien on the premises served in accordance with the Charter of the City of Holland and the applicable provisions of state law.

(5) Agreement. At the time of each application to connect to the sanitary sewer system of the City, and also at the time any additional trunkage charges become payable as provided in Subsection (c)(1) of this section, if any portion of the trunkage charge will be paid over time, as a condition precedent to connection and/or use of the sanitary sewer system, the owner of the premises to be served shall sign an agreement with the City stating the amount owed, the interest rate, and other payment terms, and that the unpaid charges and all interest and penalties thereon shall constitute a lien on the premises served. If any installment of any trunkage charge or any interest or penalties thereon is not paid in a timely manner, the City shall have the right to discontinue sewer service to the premises, and also, if the premises are connected to a public water supply, the right to turn off the water service to the premises. Sewer service and/or water service shall not be restored to the premises until all amounts then due and payable are payable in full.

(6) Tax bill collection. If any lateral fee, frontage charge, or trunkage charge, or any interest or penalties thereon is delinquent for three months or more, then on or

before November 1 of each year, it shall be certified to the City Treasurer, who shall enter the lien on the next tax roll against the premises to which sewer service has been provided, and the charges shall then be collected and the lien shall be enforced in the same manner as provided for the collection of taxes assessed upon the roll and the enforcement of the lien for taxes.

(7) Lien for payment of charges. If an installment of a trunkage charge is not paid, with all interest, on or before its due date, then such delinquent installment shall be treated and have the same status as a delinquent installment of a special assessment pursuant to Public Act No. 188 of 1954 (MCLA § 41.721 et seq.), as amended, or any similar statute, and such delinquent installment shall be collected by the City in the same manner as provided in Public Act 188 or similar successor statute for delinquent installment payments of special assessments in addition to any other remedy provided for in the Ordinance Code of the City of Holland or in an agreement executed by the owner of the premises served and the City.

ARTICLE VI
Stormwater

DIVISION 1
Generally

Sec. 29-85. Definitions. [11-7-2018 by Ord. No. 1753[4]]

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

AUTHORIZED ENFORCEMENT AGENCY — The Director of the City Transportation Services or the Director's designees.

BASE FLOOD — The 100-year flood with a magnitude which has a one-percent chance of occurring or being exceeded in any given year.

BEST MANAGEMENT PRACTICES (BMPs) — A practice, or combination of practices and design criteria, to minimize stormwater runoff and prevent the discharge of pollutants into stormwater discharged from a site, and designed in accordance with City Stormwater Standards.

BUILDING OPENING — Any opening of a solid wall such as a window or door, through which floodwaters could penetrate.

CITY — The City of Holland, Michigan, acting by and through its Transportation Services Department for the purposes of this article, unless the context refers to the City of Holland as a whole.

4. Editor's Note: This ordinance also deleted former Art. VI, Severability, and former Art. VII, Conflict, both adopted 12-5-2001 by Ord. No. 1323.

CITY STORMWATER STANDARDS — The most current version of the City of Holland, Michigan, Stormwater Standards Manual published pursuant to this article.

CLEAN WATER ACT — The Federal Water Pollution Control Act, 33 U.S.C. § 1251 et seq., as amended, and the applicable regulations promulgated thereunder.

CONSTRUCTION SITE STORMWATER RUNOFF — Stormwater runoff from a development site following an earth change.

COUNTY ENFORCING AGENCY — A county agency or a conservation district designated by a county board of commissioners under § 9105 of Part 91, Soil Erosion and Sedimentation Control, of the Natural Resource and Environmental Protection Act, Public Act 451 of 1994 (MCLA § 324.9101 et seq.).

DESIGN ENGINEER — A registered and licensed professional engineer in the state responsible for the design of a drainage plan.

DETENTION — A system that is designed to capture stormwater and release it over a given period of time through an outlet structure at a controlled rate.

DEVELOPED or DEVELOPMENT — The installation or construction of impervious surfaces on a development site that require, pursuant to state law or local ordinance, the City's approval of a site plan, plat, site condominium, special land use, planned unit development, rezoning of land, land division approval, private road approval or other approvals required for the development of land or the erection of buildings or structures.

DEVELOPER — Any person proposing or implementing the development of land.

DEVELOPMENT SITE — Any land that is being or has been developed, or that a developer proposes for development.

DISCHARGER — Any person or entity who directly or indirectly discharges stormwater from any property. The term "discharger" also means any employee, officer, director, partner, contractor, or other person who participates in, or is legally or factually responsible for, any act or omission which is or results in a violation of this article.

DRAIN — Any drain as defined in the Michigan Drain Code of 1956, Public Act 40 of 1956 (MCLA § 280.1 et seq.), other than an established county or intercounty drain.

DRAIN COMMISSIONER or WATER RESOURCES COMMISSIONER — The county agency charged with the management of county and intercounty drains established pursuant to the Michigan Drain Code of 1956, Public Act 40 of 1956 (MCLA § 280.1 et seq.), and responsible for site plan drainage review pursuant to the Land Division Act, Public Act 288 of 1967, as amended by Public Act 591 of 1996 (MCLA § 560.101 et seq.), and the Mobile Home Commission Act, Public Act 96, of 1987 (MCLA § 125.2301 et seq.).

DRAINAGE — The collection, conveyance, or discharge of groundwater and/or surface water.

DRAINAGE PLAN — See "plan."

DRAINAGEWAY — The area within which surface water or groundwater is carried from one part of a lot or parcel to another part of the lot or parcel or to adjacent land.

EARTH CHANGE — A human made change in the natural cover or topography of land, including cut and fill activities.

(a) The term "earth change" includes, but is not limited to, any excavating, surface grading, filling, landscaping, or removal of vegetative roots.

(b) The term "earth change" does not include the practice of plowing and tilling soil for the purpose of crop production.

EROSION — The process by which the ground surface is worn away by action of wind, water, gravity or a combination thereof.

EXEMPTED DISCHARGES — Discharges other than stormwater as specified in Section 29-126.

FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) — The agency of the federal government charged with emergency management.

FLOOD or FLOODING — A general and temporary condition of partial or complete inundation of normally dry land areas resulting from the overflow of water bodies or the unusual and rapid accumulation of surface water runoff from any source.

FLOOD PROTECTION ELEVATION — The base flood elevation plus one foot at any given location.

FLOODPLAIN — The area of land adjoining any watercourse or water body that will be inundated by the base flood.

FLOODPROOFING — Any structural and/or nonstructural additions, changes, or adjustments to structures or property that reduce or eliminate flood damage to land or improvements, including utilities and other structures.

FLOODWAY — The channel of any watercourse and the adjacent land areas that must be reserved to carry and discharge a base flood without cumulatively increasing the water surface elevation more than 1/10 of a foot due to the loss of flood conveyance or storage.

GRADING — Any stripping, clearing, stumping, excavating, filling, leveling or stockpiling of soil or any combination thereof and the land in its excavated or filled condition.

HAZARDOUS MATERIALS — Any material, including any substance, waste, or combination thereof, which, because of its quantity, concentration, or physical, chemical, or infectious characteristics, may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

ILLICIT CONNECTION — Any method or means for conveying an illicit discharge into water bodies or the City's stormwater drainage system.

ILLICIT DISCHARGE — Any discharge to the City's stormwater drainage system or water bodies that does not consist entirely of stormwater, discharges pursuant to the terms of an NPDES permit, or exempted discharges as defined in this article.

IMPERVIOUS SURFACE — A surface, such as a paved or gravel driveway, roof, parking area or road, that prevents the infiltration of water into the soil.

LIVESTOCK PRODUCTION FACILITY — An agricultural activity, in which 100 or more livestock are fed, bred and/or raised within a confined area, other than an open pasture, either inside or outside an enclosed building.

LOWEST FLOOR — The lowest floor or the lowest enclosed area, including a basement, but not including an unfinished or flood-resistant enclosure which is usable solely for parking of vehicles or building access.

MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY (DEQ) — The state department charged with protection of the environment.

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) — A publicly owned conveyance system designed or used for collecting or conveying stormwater (may also be referred to as "stormwater drainage system").

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORMWATER DISCHARGE PERMIT — A permit issued by EPA, or by a state under authority delegated pursuant to 33 U.S.C. § 1342(b), that authorizes the discharge of pollutants to waters of the United States. The permit may be applicable on an individual, group, or general area-wide basis.

NON-STORMWATER DISCHARGE — Any discharge to the stormwater drainage system that is not composed entirely of stormwater.

OVERLAND FLOW-WAY — Surface area that conveys a concentrated flow of stormwater runoff.

PLAN — Written narratives, specifications, drawings, sketches, maps, written standards, supporting calculations, operating procedures, or any combination of these, which contain information pursuant to this article.

POLLUTANT — A substance discharged which includes, but is not limited to, the following: any dredged spoil, solid waste, vehicle fluids, yard wastes, animal wastes, agricultural waste products, sediment, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological wastes, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, and industrial, municipal, commercial and agricultural waste, or any other contaminant or other substance defined as a pollutant under the Clean Water Act.

PREMISES — Any building, lot, parcel of land, or portion of land, whether improved or unimproved, including adjacent sidewalks and parking strips.

PROPERTY OWNER — Any person having legal or equitable title to property or any person having or exercising care, custody, or control over any property.

REDEVELOPMENT — Redevelopment projects are those that change the existing site footprint, or offer new opportunities for stormwater control. Projects that do not disturb the underlying or surrounding soil, remove surrounding vegetation, or increase the area of impervious surface are not considered redevelopment projects. For roadway projects, reconstruction of the subbase is considered redevelopment, whereas an overlay of the pavement surface is not.

RETENTION — A system which is designed to capture stormwater and contain it until it infiltrates the soil or evaporates.

SOIL EROSION — The stripping of soil and weathered rock from land creating sediment for transportation by water, wind or ice, and enabling formation of new sedimentary deposits.

STATE WATER QUALITY STANDARDS — All applicable state rules, regulations, and laws pertaining to water quality, including the provisions of § 3106 of Part 31, Water Resources Protection, of the Natural Resources and Environmental Protection Act, Public Act 451 of 1994 (MCLA § 324.3106).

STORM DRAIN — Any portion of the stormwater drainage system, including any natural outlet, which carries storm and surface waters and drainage or unpolluted industrial process water, such as permitted by Section 29-7(b). (May also be referred to as "storm sewer").

STORMWATER MANAGEMENT FACILITY — The method, structure, area, system, or other equipment or measures which are designed to receive, control, store, or convey stormwater.

STORMWATER MANAGEMENT SYSTEM — All of the stormwater management facilities used on a site.

STORMWATER PERMIT — A permit issued by the City pursuant to this article.

STORMWATER POLLUTION PREVENTION PLAN (SWPP) — A document which describes the best management practices and activities to be implemented by a person to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to stormwater, stormwater conveyance systems, and/or receiving waters to the maximum extent practicable.

STORMWATER REVIEW AND APPROVAL — Review and approval of a site stormwater management system conducted by either the Drain Commissioner or Water Resources Commissioner pursuant to state law.

STORMWATER RUNOFF — The runoff and drainage of precipitation resulting from rainfall or snowmelt or other natural event or process.

STREAM — A river, stream or creek which may or may not be serving as a drain, or any other water body that has definite banks, a bed, and visible evidence of a continued flow or continued occurrence of water.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY (EPA) — The agency of the federal government charged with environmental protection.

WASTEWATER — Any water or other liquid, other than uncontaminated stormwater, discharged from a facility.

WATER BODY — A river, lake, stream, creek or other watercourse or wetlands.

WATERSHED — A region draining into a water body.

WETLANDS — Land characterized by the presence of hydric soils and water at a frequency and duration sufficient to support wetland vegetation or aquatic life.

Sec. 29-86. Statutory authority and title. [11-7-2018 by Ord. No. 1753]

(a) This article (Article VI of Chapter 29 of the City Code of Ordinances) is adopted in accordance with the Home Rule City Act, as amended, Public Act 279 of 1909 (MCLA § 117.1 et seq.); the Michigan Drain Code of 1956, Public Act 40 of 1956 (MCLA § 280.1 et seq.); the Land Division Act, Public Act 288 of 1967 (MCLA § 560.101 et seq.); the Revenue Bond Act, Public Act 94 of 1933 (MCLA § 141.101 et seq.); and the Natural Resources and Environmental Protection Act, Public Act 451 of 1994 (MCLA § 324.101 et seq.); § 401(p) of the Federal Water Pollution Control Act (also known as the "Clean Water Act"), as amended [33 U.S.C. § 1342(p) and 40 CFR 9, 122, 123 and 124]; and other applicable state and federal laws.

(b) This article shall be known and may be cited as the "City of Holland, Michigan, Stormwater Ordinance."

Sec. 29-87. Findings. [11-7-2018 by Ord. No. 1753]

The City finds that:

(a) Water bodies, roadways, structures, and other property within, and downstream of the City are at times subjected to flooding.

(b) Flooding is a danger to the lives and property of the public and is also a danger to the natural resources of the City and the region.

(c) Land development alters the hydrologic response of watersheds, which may result in increased stormwater runoff rates and volumes, increased flooding, increased stream channel erosion, and increased sediment transport and deposition.

(d) Stormwater runoff produced by land development may contribute to increased quantities of waterborne pollutants.

(e) Increases of stormwater runoff, soil erosion, and nonpoint source pollution may have occurred as a result of land development, and may cause deterioration of the water resources of the City and downstream municipalities.

(f) Stormwater runoff, soil erosion, and nonpoint source pollution may have resulted in a deterioration of the water resources of the City and downstream municipalities.

(g) Increased stormwater runoff rates and volumes, and the sediments and pollutants associated with stormwater runoff, absent reasonable regulation and control, can adversely affect the City's water bodies and water resources, and those of downstream municipalities.

(h) Stormwater runoff, soil erosion, and nonpoint source pollution can be controlled and minimized by the regulation of stormwater runoff from development.

(i) Post-construction stormwater runoff program requirements for new and redevelopments within the City are set forth in the State of Michigan National Pollutant Discharge Elimination System Permit Application for Discharge of Storm Water to Surface Waters of the State from a Municipal Separate Storm Sewer System (DEQ, 2013 Rev. 10/2014).

(j) Adopting the standards, criteria and procedures contained in this article and implementing the same can address many of the deleterious effects of stormwater runoff.

(k) Adopting these standards is necessary for the preservation of the public health, safety and welfare.

(l) Adopting these standards is necessary to comply with the NPDES MS4 permit.

(m) Illicit discharges may contain pollutants that can significantly degrade the City's water bodies and water resources.

(n) Illicit discharges enter the MS4 through either direct connections (e.g., wastewater piping either mistakenly or deliberately connected to the storm drains) or indirect connections (e.g., infiltration into the stormwater drainage system or spills connected by drain inlets).

(o) Establishing the measures for controlling illicit discharges and connections contained in this article and implementing the same will address many of the deleterious effects of illicit discharges.

Sec. 29-88. Purpose. [11-7-2018 by Ord. No. 1753]

It is the purpose of this article to establish minimum stormwater management requirements and controls to accomplish, among others, the following objectives:

(a) To reduce artificially induced flood damage.

(b) To minimize increased stormwater runoff rates and volumes from identified new land development.

(c) To minimize the deterioration of existing watercourses, culverts and bridges, and other structures.

(d) To encourage water recharge into the ground where geologically favorable conditions exist.

(e) To prevent an increase in nonpoint source pollution.

(f) To maintain the integrity of stream channels for their biological functions, as well as for drainage and other purposes.

(g) To minimize the impact of development upon stream bank and streambed stability.

(h) To reduce erosion from development or construction projects.

(i) To preserve and protect water supply facilities and water resources by means of controlling increased flood discharges, stream erosion, and runoff pollution.

(j) To reduce stormwater runoff rates and volumes, soil erosion, and nonpoint source pollution, wherever practicable, from lands that were developed without stormwater management controls meeting the purposes and standards of this article.

(k) To reduce the adverse impact of changing the land use along water bodies and, to that end, this article establishes minimum standards to protect water bodies from degradation resulting from changing land use where there are insufficient stormwater management controls.

(l) To regulate the contribution of pollutants to the MS4 by stormwater discharges by any user.

(m) To prohibit illicit discharges and connection to the MS4.

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

Sec. 29-89. Applicability, exemptions and general provisions. [11-7-2018 by Ord. No. 1753]

(a) This article shall apply to all new development and all redevelopment projects, including private, commercial and public projects that disturb one acre or more, and projects less than one acre that are part of a larger common plan of development or sale that would disturb one acre or more as required by the NPDES MS4 permit.

(b) Further:

(1) This article shall apply to any development or redevelopment site which:

a. Requires approval of a plat under Chapter 33.

b. Requires approval of a site plan under Chapter 39, Article II, a building permit, or any other permit for work which will alter stormwater drainage characteristics of the site.

c. Is exempt from site plan and permit approval, but work will alter stormwater drainage characteristics of the site, and there is an increase in impervious surface exceeding 5,000 square feet.

(2) Provided, however, that this article shall not apply to the following:

a. The construction of, or addition, extension or modification to, an individual single-family or a two-family detached dwelling.

b. Non-motorized improvements (sidewalk, pathway) within public rights-of-way that disturb less than one acre.

c. The installation or removal of individual mobile homes within a mobile home park. This exemption shall not be construed to apply to the construction, expansion, or modification of a mobile home park.

d. Farm operations and buildings, except dwellings, directly related to farm operations. This exemption shall not apply to livestock production facilities as defined in this article, greenhouses and other similar structures.

e. Plats with preliminary plat approval and other developments with final land use approval prior to the effective date of this article, where such approvals remain in effect.

(c) Redevelopment and additions requiring a stormwater permit shall comply with City Stormwater Standards for the redeveloped or newly constructed portion of the site, except that the City reserves the right to require the entire site be brought up to the current standards. The City also reserves the right to define the last land use for a redevelopment site as the interim vacant condition.

(d) This article shall apply to all discharges entering the stormwater drainage system generated on any developed and undeveloped lands unless explicitly exempted.

Sec. 29-90. through Sec. 29-96. (Reserved)

DIVISION 2

Stormwater Permit

Sec. 29-97. Permit required. [11-7-2018 by Ord. No. 1753]

(a) A developer shall not engage in any development without first receiving a stormwater permit from the City pursuant to this article via the City's site plan approval process contained in the zoning regulations in Chapter 39, Article II.

(b) The granting of a stormwater permit shall authorize only such development for which the permit is issued, subject to the terms of the permit, and it shall not be deemed to approve other development or other land use activities, or replace other required permits.

Sec. 29-98. Review procedures. [11-7-2018 by Ord. No. 1753]

(a) The City shall grant a stormwater permit after approval of the site plan (Chapter 39, Article II) and before issuance of a building permit(s), and may impose terms and conditions in accordance with Section 29-104, only upon compliance with all of the following requirements:

(1) Completed stormwater permit application form.

(2) The developer has submitted a drainage plan for the site complying with Section 29-99 for the approval of post-construction stormwater runoff BMPs.

a. The drainage plan contains a description of adequate, temporary stormwater management facilities to control construction site stormwater runoff and prevent off-site sedimentation, satisfying the requirements of Section 29-117, and the developer has obtained a soil erosion permit from the County Enforcing Agency, if necessary.

b. The drainage plan contains permanent on-site stormwater management facilities complying with the City Stormwater Standards, and the performance and design standards as set forth in Division 8 of this article.

(3) The developer has submitted restrictive covenant language for review and subsequent recording at the County Register of Deeds, if required for the development.

(4) Written construction plan approval obtained from the County Drain or Water Resources Commissioner, or intercounty drainage board, if required.

(5) The developer has paid or deposited the stormwater permit review fee pursuant to Section 29-100.

(6) The developer has paid or posted the applicable financial guaranty pursuant to Section 29-101.

(7) The developer provides all easements necessary to implement the approved drainage plan and to otherwise comply with this article, including, but not limited to, Section 29-163. All easements shall be acceptable to the City in form and substance and shall be recorded with the County Register of Deeds.

(8) The developer provides the required maintenance agreement for routine, emergency, and long-term maintenance of all structural and vegetative BMPs installed and implemented to meet the performance standards. This agreement shall be in compliance with the approved drainage plan and this article, including, but not limited to, Section 29-164. The maintenance agreement shall be acceptable to the City in form and substance and shall be subsequently recorded with the County Register of Deeds.

(b) Limitations of review. The City will review private developments for off-site impacts, but will not review the internal storm sewer and drainage system for the site.

Sec. 29-99. Drainage plan. [11-7-2018 by Ord. No. 1753]

A preliminary drainage plan meeting the requirements of Section 39-23(a)(4)m through n shall be included on the site plan submitted to the City for site and development plan review. The drainage plan submitted for stormwater permit review shall be shown on the approved site plan if Planning Commission or administrative staff review is required, or on a site plan meeting the requirements in the City Stormwater Standards. The drainage plan shall identify and contain all of the information required in the City Stormwater Standards.

Sec. 29-100. Review fees; escrow. [11-7-2018 by Ord. No. 1753]

(a) All expenses and costs incurred by the City directly associated with processing, reviewing and approving or denying a stormwater permit application shall be paid or reimbursed to the City from the funds paid directly to the City. The City reserves the right to request a separate escrow account be established by the developer, as provided in Subsection (b) of this section. The City may draw funds from a developer's escrow account to reimburse the City for out-of-pocket expenses incurred by the City relating

to the application. Such reimbursable expenses include, but are not limited to, expenses related to the following:

(1) Services of the City Attorney directly related to the application.

(2) Services of the City Engineer directly related to the application.

(3) Services of other independent contractors working for the City, which are directly related to the application.

(4) Review required by the County Drain or Water Resources Commissioner.

(5) Any additional public hearings, required mailings and legal notice requirements necessitated by the application.

(b) At the time a developer applies for a stormwater permit, the developer shall pay the required fees established by the City for a stormwater permit. The developer may also be required to deposit with the City, as an escrow deposit, an initial amount as determined by resolution of the City Council for such matters and shall provide additional amounts as requested by the City in such increments as are specified in said resolution. Any excess funds remaining in the escrow account after the application has been fully processed, reviewed, and the final City approval and acceptance of the development has occurred will be refunded to the developer with no interest to be paid on those funds. At no time prior to the City's final decision on an application shall the balance in the escrow account fall below the required initial amount. If the funds in the account are reduced to less than the required initial amount, the developer shall deposit into the account an additional amount as determined by City Council resolution, before the application review process will be continued. Additional amounts may be required to be placed in the escrow account by the developer, at the discretion of the City.

Sec. 29-101. Financial guaranty. [11-7-2018 by Ord. No. 1753]

(a) The City shall not approve a stormwater permit until the developer submits to the City, in a form and amount satisfactory to the City, a letter of credit or other financial guaranty for the timely and satisfactory construction of all stormwater management facilities and site grading in accordance with the approved drainage plan. Upon 1) certification by a registered professional engineer that the stormwater management facilities have been completed in accordance with the approved drainage plan, and 2) receipt of construction record drawings for all private drainage systems meeting the minimum requirements of the City Stormwater Standards, the City may release the letter of credit or other financial guaranty, subject to final City acceptance and approval.

(b) Except as provided in Subsection (c) of this section, the amount of the financial guaranty shall be equal to the construction cost estimate provided by the developer of all stormwater management facilities and site grading, unless the City determines that a greater amount is appropriate, in which case the basis for such determination shall be provided to the developer in writing. In determining whether an amount greater is appropriate, the City shall consider the size and type of the development, the size and type of the on-site stormwater management system, and the nature of the off-site stormwater management facilities the development will utilize.

(c) The City may waive the financial guaranty for a development if the County Drain or Water Resources Commissioner or the County Road Commission, as part of its review process, requires a letter of credit or other financial guaranty for the satisfactory construction of all stormwater management facilities.

(d) The City may reduce or waive the amount of the financial guaranty for a development that will not increase the percentage of impervious surface of the development site by more than 10%.

(e) This article shall not be construed or interpreted as relieving a developer of its obligation to pay all costs associated with on-site private stormwater runoff facilities as well as those costs arising from the need to make other drainage improvements in order to reduce a development's impact on a drain consistent with City Stormwater Standards.

Sec. 29-102. Certificate of occupancy. [11-7-2018 by Ord. No. 1753]

No certificate of occupancy shall be issued until a stormwater permit has been issued and stormwater management facilities have been completed in accordance with the approved drainage plan and all applicable restrictive covenants, construction record drawings have been submitted and approved, and until the executed maintenance agreement is recorded with the County Register of Deeds; provided, however, that the City may issue a temporary certificate of occupancy if an acceptable letter of credit or other financial guaranty has been submitted to the City, the County Drain or Water Resources Commissioner, or the County Road Commission for the timely and satisfactory construction of all stormwater management facilities and site grading in accordance with the approved drainage plan.

Sec. 29-103. No change in approved facilities. [11-7-2018 by Ord. No. 1753]

Stormwater management facilities, after construction and approval, shall be maintained in good condition, in accordance with the approved drainage plan, and shall not be subsequently altered, revised or replaced except in accordance with the approved drainage plan, or in accordance with approved amendments or revisions in the plan.

Sec. 29-104. Terms and conditions. [11-7-2018 by Ord. No. 1753]

(a) In granting a stormwater permit, the City may impose such terms and conditions as are reasonably necessary to effectuate the purposes of this article. A developer shall comply with such terms and conditions.

(b) Approval of the stormwater management system is considered to be granted by the City upon issuance of a stormwater permit, unless authorization is required to be granted by the County Drain or Water Resources Commissioner under state law and this approval has not been offered.

Sec. 29-105. through § 29-111. (Reserved)

DIVISION 3

Stormwater Management System; Protection and Other Standards; Soil Erosion Control

Sec. 29-112. Responsibility for stormwater management system. [11-7-2018 by Ord. No. 1753]

(a) The City is not responsible for providing drainage facilities on private property for the management of stormwater on such property. It shall be the responsibility of the property owner to provide for, and maintain, private stormwater management facilities serving the property and to prevent and correct any conditions interfering with, or impeding, the management of stormwater, including the accumulation of debris that interferes with the drainage function of a water body.

(b) Existing sites found to be in violation of this article shall be subject to enforcement as outlined in §§ 29-147 through 29-155.

Sec. 29-113. Construction and maintenance. [11-7-2018 by Ord. No. 1753]

All stormwater management facilities shall be constructed and maintained in accordance with all applicable federal, state and local ordinances, and rules and regulations.

Sec. 29-114. Public health, safety and welfare. [11-7-2018 by Ord. No. 1753]

Protection of the public health, safety and welfare shall be a primary consideration in the design of all stormwater management facilities.

Sec. 29-115. Protection of environmentally sensitive areas. [11-7-2018 by Ord. No. 1753]

(a) Environmentally sensitive areas shall be identified on the site plan with measures shown for protection of these areas as defined and in accordance with City Stormwater Standards.

(b) The City may include provisions for the acceptable replacement of floodplain storage volume, where such storage volume is lost or diminished as a result of approved development.

Sec. 29-116. Flood protection and building openings. [11-7-2018 by Ord. No. 1753]

(a) All new buildings and substantial improvements to existing buildings shall be protected from flood damage up to the flood protection elevation and shall be in accordance with all applicable federal, state and City ordinances (Chapter 39 Zoning, Article X, Flood Damage Prevention)[5].

(b) Additionally, the lowest floor shall not be constructed below the following elevations:

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5. Editor's Note: Article X, Flood Damage Prevention, of Ch. 39, Zoning, was repealed 11-16-2011 by Ord. No. 1572. See now Ch. 6, Buildings, Art. V, Floodplain Management Provisions.

(1) One foot above the design high-water level of stormwater management facilities.

(2) Two feet above the highest known groundwater elevation.

(3) The lowest floor elevation established at the time of plat or development approval and on file in the City and/or County Drain or Water Resources Commissioner.

(c) A waiver from elevations stated in Subsection (a) of this section may be granted by the City following receipt of a certification from a registered professional engineer demonstrating that the proposed elevation does not pose a risk of flooding. Floodproofing measures must be in accordance with FEMA Technical Bulletins and Michigan Building Codes.

(d) Land survey and elevation certificate. If the City and/or County Drain or Water Resources Commissioner has specified a minimum building opening at the time of plat or development approval, or if construction occurs within the 100-year floodplain pursuant to Sections 39-370 through 39-378, upon completion of construction of the structure's foundation and/or slab on grade, a registered land surveyor shall certify any minimum building opening elevation specified by this article. This certificate shall attest that the building opening elevation complies with the standards of this article. The permittee for the building permit shall submit the certificate to the City building inspections official prior to the commencement of framing and/or structural steel placement. If the surveyor should find that the minimum building opening elevation is below the elevation specified in Subsection (a) of this section, that opening must be raised using a method that meets with the approval of the City. After reconstruction, a registered land surveyor or engineer shall recertify that the minimum building opening elevation complies with the standards of this article prior to the commencement of framing and/or structural steel placement.

(e) Waiver of land survey. The City Building Inspection Official may grant a waiver of the required land survey under Subsection (c) of this section if the minimum building opening appears to be at or above the elevation of adjacent buildings that have already been certified, or if a grade map shows that the low opening elevation of the building is at least three feet higher than the minimum building opening established pursuant to Subsection (a) of this section.

Sec. 29-117. Soil erosion and sedimentation control. [11-7-2018 by Ord. No. 1753]

(a) All persons who cause, in whole or in part, any earth change to occur shall provide soil erosion and sedimentation control so as to adequately prevent soils from being eroded and discharged or deposited onto adjacent properties or into a stormwater drainage system, a public street or right-of-way, wetland, creek, stream, water body, or floodplain.

(b) Prior to making any earth change on a development site regulated by this article, the property owner or developer shall first obtain a soil erosion and sedimentation control permit from the County Enforcing Agency issued in accordance with Part 91 of Public Act 451 of 1994 (MCLA § 324.9101 et seq.), if one is required.

(c) A soil erosion and sedimentation control permit is required for any earth change that is greater than one acre or less than 500 feet from any lake or stream. Permits are obtained from the County Enforcing Agency.

(d) The property owner and other persons causing or participating in the earth change shall comply with the terms of the soil erosion and sedimentation control permit.

(e) During earth change activities on the development site, the City Engineer may inspect the site to ensure compliance with the approved construction site runoff controls.

(f) During any earth change which exposes soil to an increased risk of erosion or sediment tracking, the property owner and other persons causing or participating in the earth change shall do the following:

(1) Comply with the stormwater management standards of this article.

(2) Prevent damage to any public utilities or services within the limits of grading and within any routes of travel or areas of work of construction equipment.

(3) Prevent damage to or impairment of any water body on or near the location of the earth change or affected thereby.

(4) Prevent damage to adjacent or nearby land.

(5) Maintain all required soil erosion and sedimentation control measures, including, but not limited to, measures required for compliance with the terms of this article.

(6) Promptly remove all soil, sediment, debris, or other materials applied, dumped, tracked, or otherwise deposited on any lands, public streets, sidewalks, or other public ways or facilities, including catch basins, storm sewers, ditches, drainage swales, or water bodies. Removal of all such soil, sediment, debris or other materials within 24 hours shall be considered prima facie compliance with this requirement, unless such materials present an immediate hazard to public health and safety.

(7) Refrain from grading lands at locations near or adjoining lands, public streets, sidewalks, alleys, or other public or private property without providing adequate support or other measures so as to protect such other lands, streets, sidewalks or other property from settling, cracking or sustaining other damage.

Sec. 29-118. through Sec. 29-124. (Reserved)

DIVISION 4
Prohibitions and Exemptions

Sec. 29-125. Prohibited discharges. [11-7-2018 by Ord. No. 1753]

(a) Prohibition of illicit discharges.

(1) No person shall discharge or cause to be discharged into the City's stormwater drainage system or water bodies any materials, including but not limited to

pollutants or waters containing any pollutants, other than stormwater, or an exempted discharge pursuant to Sections 29-7 and 29-126, or discharges specified in writing by the authorized enforcement agency as being necessary to protect public health and safety.

(2) The City is authorized to require dischargers to implement pollution prevention measures, utilizing BMPs, necessary to prevent or reduce the discharge of pollutants into the City's stormwater drainage system.

(3) No water shall be discharged in a manner that causes it to run over the City sidewalk, over the street or over neighboring properties. Pursuant to Section 29-49(a)(3), all unpolluted water shall be discharged onto the person's private property to soak into the ground, into a dry well, or through a direct connection to the City storm sewer system upon issuance of a permit by the City.

(b) Prohibition of illicit connections.

(1) The construction, use, maintenance or continued existence of illicit connections to the stormwater drainage system is prohibited.

(2) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

(3) A person is considered to be in violation of this article if the person connects a line conveying wastewater to the MS4, or allows such a connection to continue.

Sec. 29-126. Exempted discharges. [11-7-2018 by Ord. No. 1753]

The following non-stormwater discharges shall be permissible, provided that they do not result in a violation of state water quality standards or Section 29-125(a)(3):

(a) Water supply line flushing;

(b) Landscape irrigation;

(c) Diverted stream flows;

(d) Rising groundwater;

(e) Uncontaminated groundwater infiltration to storm drains;

(f) Uncontaminated pumped groundwater;

(g) Discharges from potable water sources;

(h) Foundation drains;

(i) Air conditioning condensate;

(j) Individual residential car washing;

(k) Dechlorinated swimming pool water;

(l) Street wash water;

(m) Discharges or flows from emergency firefighting activities; and

(n) Discharges for which a specific federal or state permit has been issued.

Sec. 29-127. Interference with natural or artificial drains. [11-7-2018 by Ord. No. 1753]

(a) It shall be unlawful for any person to stop, fill, dam, confine, pave, alter the course of, or otherwise interfere with, any natural or constructed drain or drainageway without first submitting a drainage plan to the City and receiving approval of that plan. Any deviation from the approved plan is a violation of this article. This section shall not prohibit, however, necessary emergency action so as to prevent or mitigate drainage that would be injurious to the environment or the public health, safety, or welfare. When any of the activities mentioned in this section involves an established county drain, a drain use permit is required from the County Drain or Water Resources Commissioner.

(b) No filling, blocking, fencing or above-surface vegetation planting shall take place within a floodplain/floodway.

(c) For an overland flow-way:

(1) Silt fence shall not be permitted below the top of the bank of a water body.

(2) Chain-link fences shall be permitted if the City determines that the fence will not obstruct or divert the flow of water.

(3) If a fence is removed by the City or the County Drain or Water Resources Commissioner for drain access or drain maintenance, the fence shall be replaced by the owner of the fence at the owner's expense, as long as the owner complies with Subsection (c)(2) of this section.

(4) No shrubs or trees shall be planted below the top of the bank of a water body, or within an easement for a waterway (for example, a backyard swale).

(d) Shrubs, trees or other above-ground vegetation shall not be planted over the top of an underground storm sewer or over the top of the easement within which the storm sewer has been installed.

Sec. 29-128. Storage of hazardous or toxic materials in drainageway. [11-7-2018 by Ord. No. 1753]

Except as permitted by law, it shall be unlawful for any person to store or stockpile within a drainageway any hazardous or toxic materials unless adequate protection and/or containment has been provided so as to prevent any such materials from entering a drainageway.

Sec. 29-129. through Sec. 29-135. (Reserved)

DIVISION 5

Inspection, Monitoring, Reporting and Recordkeeping

Sec. 29-136. Inspection and sampling. [11-7-2018 by Ord. No. 1753]

To ensure compliance with the standards in this pervasively regulated area, the City may inspect and/or obtain stormwater samples from stormwater management facilities of any discharger to determine compliance with the requirements of this article. Upon request, the discharger shall allow the City's properly identified representative to enter upon the premises of the discharger at all hours necessary for the purposes of such inspection or sampling. The City shall provide the discharger reasonable advance notice of such inspection and/or sampling. The City or its properly identified representative may place on the discharger's property the equipment or devices used for such sampling or inspection.

Sec. 29-137. Stormwater monitoring facilities. [11-7-2018 by Ord. No. 1753]

A discharger of stormwater runoff shall provide and operate equipment or devices for the monitoring of stormwater runoff, so as to provide for inspection, sampling, and flow measurement of each discharge to a water body or a stormwater runoff facility, when directed in writing to do so by the City. The City may require a discharger to provide and operate such equipment and devices if it is necessary or appropriate for the inspection, sampling and flow measurement of discharges in order to determine whether adverse effects from or as a result of such discharges may occur. All such equipment and devices for the inspection, sampling and flow measurement of discharges shall be installed and maintained in accordance with applicable laws, ordinances and regulations.

Sec. 29-138. Accidental discharges. [11-7-2018 by Ord. No. 1753]

(a) Any discharger who accidentally discharges into a water body any substance other than stormwater or an exempted discharge shall immediately inform the City concerning the discharge. If such information is given orally, a written report concerning the discharge shall be filed with the City within five days. The written report shall specify:

(1) The composition of the discharge and the cause thereof.

(2) The exact date, time, and estimated volume of the discharge.

(3) All measures taken to clean up the accidental discharge, and all measures proposed to be taken to reduce and prevent any recurrence.

(4) The name and telephone number of the person making the report, and the name of a person who may be contacted for additional information on the matter. A properly reported accidental discharge shall be an affirmative defense to a civil infraction proceeding brought under this article against a discharger for such discharge. It shall not, however, be a defense to a legal action brought to obtain an injunction, to obtain recovery of costs or to obtain other relief as a result of or arising out of the discharge. A discharge shall be considered properly reported only if the discharger complies with all the requirements of Subsection (a) of this section.

Sec. 29-139. Recordkeeping requirement. [11-7-2018 by Ord. No. 1753]

Any person subject to this article shall retain and preserve for no less than three years any and all books, drawings, plans, prints, documents, memoranda, reports, correspondence and records, including records on magnetic or electronic media and any and all summaries of such records, relating to monitoring, sampling and chemical analysis of any discharge or stormwater runoff from any property.

Sec. 29-140. through Sec. 29-146. (Reserved)

DIVISION 6

Enforcement

Sec. 29-147. Sanctions for violation. [11-7-2018 by Ord. No. 1753]

(a) Any person violating any provision of this article other than Sections 29-117, 29-125 and 29-127, and except as provided in Subsection (b) of this section, shall be responsible for a municipal civil infraction and subject to a fine of not less than $500 for a first offense, and not less than $1,000 for a subsequent offense, plus costs, damages, expenses, and other sanctions as authorized under Chapter 87 of the Revised Judicature Act of 1961[6] and other applicable laws, including, without limitation, equitable relief. Each day such violation occurs or continues shall be deemed a separate offense and shall make the violator liable for the imposition of a fine for each day. The rights and remedies provided for in this section are cumulative and in addition to any other remedies provided by law. An admission or determination of responsibility shall not exempt the offender from compliance with the requirements of this article.

(b) For purposes of this section, "subsequent offense" means a violation of the provisions of this article committed by the same person within 12 months of a previous violation of the same provision of this article for which said person admitted responsibility or was adjudicated to be responsible.

(c) Any person who neglects or fails to comply with a stop-work order issued under Section 29-148 shall, upon conviction, be guilty of a misdemeanor punishable by a fine of not more than $500 or imprisonment in the county jail for not more than 93 days, or both such fine and imprisonment, and such person shall also pay such costs as may be imposed in the discretion of the court.

(d) Any person who aids or abets a person in a violation of this article shall be subject to the sanctions provided in this section.

(e) A person who violates Section 29-117, 29-125 or 29-127 shall be guilty of a misdemeanor, subject to penalties set forth in Section 1-10.

6. Editor's Note: See MCLA § 600.101 et seq.

Sec. 29-148. Stop-work order. [11-7-2018 by Ord. No. 1753]

Where there is work in progress that causes or constitutes in whole or in part, a violation of any provision of this article, the City is authorized to issue a stop-work order so as to prevent further or continuing violations or adverse effects. All persons to whom the stop-work order is directed, or who are involved in any way with the work or matter described in the stop-work order, shall fully and promptly comply therewith. The City may also undertake, or cause to be undertaken, any necessary or advisable protective measures so as to prevent violations of this article or to avoid or reduce the effects of noncompliance herewith. The cost of any such protective measures shall be the responsibility of the owner of the property upon which the work was performed.

Sec. 29-149. Failure to comply. [11-7-2018 by Ord. No. 1753]

In addition to any other remedies, should any owner fail to comply with the provisions of this article, the City may, after the giving of reasonable notice and opportunity for compliance, have the necessary work done, and the owner shall be obligated to promptly reimburse the City for all costs of such work.

Sec. 29-150. Emergency measures. [11-7-2018 by Ord. No. 1753]

When emergency measures are necessary to moderate a nuisance, to protect public safety, health and welfare, and/or to prevent loss of life, injury or damage to property, the City is authorized to carry out or arrange for all such emergency measures. Property owners shall be responsible for the cost of such measures made necessary as a result of a violation of this article and shall promptly reimburse the City for all of such costs.

Sec. 29-151. Cost recovery for damage to stormwater drainage system. [11-7-2018 by Ord. No. 1753]

A discharger shall be liable for all costs incurred by the City as the result of causing a discharge that produces a deposit or obstruction, or causes damage to, or impairs a storm drain, or violates any of the provisions of this article. Costs include, but are not limited to, those penalties levied by the EPA or DEQ for violation of an NPDES permit, attorney fees, and other costs and expenses.

Sec. 29-152. Collection of costs; lien. [11-7-2018 by Ord. No. 1753]

Costs incurred by the City pursuant to Sections 29-148, 29-149, 29-150, 29-151 and 29-164, shall be a lien on the premises which shall be enforceable in accordance with the Revenue Bond Act, Public Act 94 of 1933 (MCLA § 141.101 et seq.). Any such charges which are delinquent for six months or more may be certified annually to the City Treasurer, who shall enter the lien on the next tax roll against the premises, and the costs shall be collected and the lien shall be enforced in the same manner as provided for in the collection of taxes assessed upon the roll and the enforcement of a lien for taxes. In addition to any other lawful enforcement methods, the City shall have all remedies authorized by such Act.

Sec. 29-153. Appeals. [11-7-2018 by Ord. No. 1753]

Any person to whom any provision of this article has been applied may appeal in writing, not later than 30 days after the action or decision being appealed from, to the City Council the action or decision whereby any such provision was so applied. Such appeal shall identify the matter being appealed, and the basis for the appeal. The City Council shall consider the appeal and make a decision whereby it affirms, rejects or modifies the action being appealed. In considering any such appeal, the City Council may consider the recommendations of the City Engineer and the comments of other persons having knowledge of the matter. In considering any such appeal, the City Council may grant a variance from the terms of this article so as to provide relief, in whole or in part, from the action being appealed, but only upon finding that the following requirements are satisfied:

(a) The application of the article provisions being appealed will present or cause practical difficulties for a development or development site; provided, however, that practical difficulties shall not include the need for the developer to incur additional reasonable expenses in order to comply with the article; and

(b) The granting of the relief requested will not substantially prevent the goals and purposes sought to be accomplished by this article, nor result in less effective management of stormwater runoff.

Sec. 29-154. Suspension of MS4 access. [11-7-2018 by Ord. No. 1753]

(a) Suspension due to illicit discharges in emergency situations. The City may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge, which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4. If the violator fails to comply with a suspension order issued in an emergency, the City may take such steps as deemed necessary to prevent or minimize damage to the MS4 or the environment, or to minimize danger to the health or welfare of persons.

(b) Suspension due to the detection of illicit discharge. Any person discharging to the MS4 in violation of this article may have the person's MS4 access terminated if such termination would abate or reduce an illicit discharge. The City will notify a violator of the proposed termination of the violator's MS4 access. A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this section, without the prior approval of the City.

Sec. 29-155. Tracking enforcement. [11-7-2018 by Ord. No. 1753]

The City shall implement a method for tracking instances of noncompliance. The tracking procedure shall ensure that detailed information about noncompliance and follow up enforcement action is adequately documented, including at a minimum:

(a) Name of the person responsible for violating the article.

(b) Date and location of violation.

(c) Description of the violation, including how the violation was identified.

(d) Description of the enforcement response.

(e) Schedule for returning to compliance.

(f) Date the violation was resolved.

Sec. 29-156. through Sec. 29-161. (Reserved)

DIVISION 7

Stormwater Easements and Maintenance Agreements

Sec. 29-162. Applicability of requirements. [11-7-2018 by Ord. No. 1753]

The requirements of this division concerning stormwater easements and maintenance agreements shall apply to all persons required to submit a drainage plan to the City for review and approval.

Sec. 29-163. Stormwater easements. [11-7-2018 by Ord. No. 1753]

The developer shall provide all stormwater easements necessary to implement the approved drainage plan and to otherwise comply with this article in form and substance required by the City, and shall record such easements as directed by the City. The easements shall ensure access for proper inspection and maintenance of stormwater management facilities and shall provide adequate emergency overland flow-ways. Easements for private stormwater management systems shall be conveyed by each landowner to the entity responsible for operation and maintenance of the stormwater management system. The City will not accept easements over private stormwater management systems.

Sec. 29-164. Maintenance agreements. [11-7-2018 by Ord. No. 1753]

(a) Maintenance agreement required. The developer shall provide all stormwater maintenance agreements necessary to implement the approved drainage plan and to otherwise comply with this article in form and substance as required by the City. The maintenance agreement shall be signed and submitted to the City for review and approval at the time application for a stormwater permit is made. After construction of the stormwater management system has been verified and approved or accepted by the City, the developer shall execute a final maintenance agreement with the City, record such agreements with the County Register of Deeds, and provide a copy of the recorded document to the City. The City reserves the right to require the maintenance agreement be recorded prior to issuance of a stormwater permit.

(b) Maintenance agreement provisions. The maintenance agreement shall, among other matters, ensure access for proper inspection by the City or its designee, allow for maintenance or corrective actions of stormwater BMPs, and include provisions for the tracking of maintenance activities, and transfer of operation and maintenance responsibility to ensure the performance standards are met in perpetuity.

(1) Maintenance plan. The maintenance agreement shall include a maintenance plan and schedule for routine, emergency and long-term maintenance of all structural and vegetative stormwater BMPs installed and implemented to meet the performance standards, with a detailed annual estimated budget for the initial three years, and a clear statement that only future maintenance activities in accordance with the maintenance plan shall be permitted without the necessity of securing new permits.

(2) Maintenance documentation. Written notice and submittal of maintenance documentation shall be provided to the City by the property owner at the interval set forth in the maintenance agreement and subject to the provisions of Sections 29-136 through 29-153.

(3) Failure to perform maintenance. If it has been found by the City, following notice and an opportunity to be heard by the property owner, that there has been a material failure or refusal to undertake maintenance as required under this article and/or as required in the approved maintenance agreement as required hereunder, the City shall then be authorized, but not required, to hire an entity with qualifications and experience in the subject matter to undertake the monitoring and maintenance as so required, in which event the property owner shall be obligated to advance or reimburse payment for all costs and expenses associated with such monitoring and maintenance, together with a reasonable administrative fee. The maintenance agreement required under this article shall contain a provision spelling out the requirements; and if the applicant objects in any respect to such provision or the underlying rights and obligations, such objection shall be resolved prior to the commencement of construction of the proposed development on the property. If the property owner fails to pay the costs incurred by the City under this section, the costs shall be a lien on the property and enforced as provided in Section 29-152.

(c) Tracking operation and maintenance. The City shall implement a tracking system to include procedures for filing and retrieval of all recorded maintenance agreements, maintenance plans, and stormwater management system maps to document location and ages of stormwater BMPs. The City shall also track annual inspection reports required to be submitted from the developer, and any inspection conducted by the City to document condition of stormwater BMPs and maintenance performed.

Sec. 29-165. Prohibition of orphan drains. [11-7-2018 by Ord. No. 1753]

Prior to issuance of a stormwater permit, all stormwater management systems must have a single entity responsible for long-term operation and maintenance. The City will not approve an orphan drainage system serving multiple landowners without recorded stormwater easements and maintenance agreements.

Sec. 29-166. through Sec. 29-172. (Reserved)

DIVISION 8

Performance and Design Standards

Sec. 29-173. Resolution to implement performance and design standards. [11-7-2018 by Ord. No. 1753]

The City Council may adopt a resolution establishing detailed design and performance standards for stormwater management facilities, consistent with the terms of this article, and in order to further implement the goals and purposes set forth in this article. Amendments to the design and performance standards must be approved by the City Council.

Sec. 29-174. Performance standards. [11-7-2018 by Ord. No. 1753]

In order to achieve the goals and purposes of this article, sites shall meet the stormwater management performance standards for water quality treatment, channel protection, flood control, and other site-specific standards as published in the City Stormwater Standards.

Sec. 29-175. Alternatives for meeting performance standards. [11-7-2018 by Ord. No. 1753]

(a) The City may establish programs and procedures for alternative means to meet the channel protection performance standard if on-site retention is determined to be not feasible.

(b) Requirements for programs and procedures (if any) adopted by the City are given in the City Stormwater Standards.

Sec. 29-176. Design standards. [11-7-2018 by Ord. No. 1753]

Stormwater BMPs shall be designed to meet the performance standards as described in § 29-174. Stormwater management system design shall be in accordance with the City Stormwater Standards.

Sec. 29-177. Responsibility to implement best management practices (BMPs). [11-7-2018 by Ord. No. 1753]

The owner or operator of a commercial or industrial establishment shall provide, at the owner's or operator's own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the City's stormwater drainage system or water bodies through the use of these structural and nonstructural BMPs. Further, any person responsible for a property or premises, which is or may be the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and nonstructural BMPs to prevent the further discharge of pollutants to the MS4. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section. These BMPs shall be part of a stormwater pollution prevention plan (SWPPP) as necessary for compliance with requirements of the NPDES permit.

Chapter 30

SMOKE CONTROL

Sec. 30-1. Definitions.

Sec. 30-2. Smoke regulation officer—enforcement of chapter; advice and assistance from Chiefs of Fire and Police Departments.

Sec. 30-3. Duties generally.

Sec. 30-4. Interference with, etc.; right of entry.

Sec. 30-5. Inspection, notice and order to correct, etc., defective equipment.

Sec. 30-6. Prohibited emissions; standards; exceptions.

Sec. 30-7. Emissions to be visible to operators.

Sec. 30-8. Persons liable under chapter.

Sec. 30-9. Violations and penalties—generally.

Sec. 30-10. Certain violations constitute nuisances per se.

Sec. 30-1. Definitions. [Code 1955, § 3-2.1.]

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

DUST — Gas and airborne particles larger than one micron in mean diameter.

DUST SEPARATING EQUIPMENT — Any device for separating dust from the gas medium in which it is carried.

FUEL-BURNING EQUIPMENT — Any furnace, incinerator, refuse-burning equipment, boiler, apparatus, device, mechanism, stack or structure used in the process of burning fuel or combustible material, excepting cooking stoves or ranges, service water heaters, room or space heaters that use gas, kerosene or gasoline as fuel, and such equipment as is covered by this Code.

FUMES — Gases or vapors that are of such character as to create an unclean, destructive, offensive or unhealthful condition.

INTERNAL COMBUSTION ENGINE — An engine in which combustion of a gaseous, liquid or pulverized solid fuel takes place within one or more cylinders.

OPEN FIRE — Any fire wherein the products of combustion are emitted into the open air and are not directed thereto through a stack or chimney.

RINGELMANN SMOKE CHART — The Ringelmann Chart, with instructions for use, as published by the United States Bureau of Mines.

SMOKE — Small gas and air-borne particles consisting essentially of carbonaceous material in sufficient number to be observable.

SMOKE REGULATION OFFICER — The Director of the Department of Community and Neighborhood Services of the City or his or her authorized assistant or deputy.

SOOT — Agglomerated particles consisting essentially of carbonaceous material.

STACK OR CHIMNEY — A flue, conduit or opening arranged for emitting air containing dust and gases containing dust or smoke into the open air.

Sec. 30-2. Smoke regulation officer—enforcement of chapter; advice and assistance from Chiefs of Fire and Police Departments. [Code 1955, § 3-2.2.]

The smoke regulation officer shall carry out and enforce the provisions of this chapter. In carrying out and enforcing the provisions of this chapter, the smoke regulation officer shall be privileged to call upon the Chief of the Fire Department and the Chief of the Police Department and to receive from them such advice and assistance as may be within their respective powers and functions to render.

Sec. 30-3. Duties generally. [Code 1955, § 3-2.3.]

To secure the enforcement of the provisions of this chapter, the smoke regulation officer shall perform the following duties:

(a) The investigation of complaints and the making of inspections and observations of smoke conditions; and

(b) The keeping of a record of all violations and complaints and the disposition thereof.

Sec. 30-4. Interference with, etc.; right of entry. [Code 1955, § 3-2.6.]

No person shall in any manner hinder, obstruct, delay, resist, prevent or in any way interfere or attempt to interfere with the smoke regulation officer, his or her assistant or deputy, or any of his or her or their subordinates, in the performance of any duty imposed or required of them by this chapter, or, after proper identification, refuse to permit such persons to perform their duty by refusing them, or any of them, entrance to the premises at reasonable hours.

Sec. 30-5. Inspection, notice and order to correct, etc., defective equipment. [Code 1955, § 3-2.4.]

If, upon inspection, it is found that any fuel burning equipment is in such condition that it cannot be operated within the provisions of the chapter, the smoke regulation officer shall give notice in writing to the person owning, operating or in charge of such equipment of the defects found and an order to correct, repair or replace the defective equipment. Failure to comply with this order within 30 days from its date shall be a violation of this section.

Sec. 30-6. Prohibited emissions; standards; exceptions. [Code 1955, § 3-2.5.]

No person shall cause, suffer or allow to be emitted into the open air from any fuel-burning equipment, internal combustion engine, premises or open fire, smoke the shade or appearance of which is equal to or darker than No. 2 of the Ringelmann chart excepting:

(a) Smoke, the shade or appearance of which is equal to but not darker than No. 2 of the Ringelmann chart for one or more periods aggregating four minutes in any 30 minutes;

(b) When building a new fire, or blowing down or cleaning flues, or when break-down of equipment occurs such as to make it evident that the emission was not reasonably preventable, smoke, the shade or appearance of which is equal to but not darker than No. 3 of the Ringelmann chart for one or more periods aggregating three minutes in any 15 minutes; provided, that wherever possible flues shall be blown down or cleaned during the nighttime.

For the purpose of grading the shade or appearance of smoke, the Ringelmann chart as now published and used by the United States Bureau of Mines, which is hereby made a part of the chapter by reference, shall be the standard.

No person shall cause, suffer or allow to be emitted into the open air from any fuel-burning equipment or premises or to pass a convenient measuring point nearest to the stack outlet, dust in the gases to exceed eighty-five hundredths pound per one thousand pounds of gases, adjusted to 50% excess air for products of combustion; except, that for fuel-burning equipment constructed or installed subsequent the effective date of this chapter, special dust-separating equipment with up to 85% efficiency may be required, and that for fuel-burning equipment constructed or installed prior to the effective date of this chapter, special dust-separating equipment with up to 75% efficiency may be required. The limitations given shall be waived during periods when break-down of equipment occurs such as to make it evident that the emission was not reasonably preventable. The amount of solids in the gases shall be determined according to the Test Code for Dust-Separating Apparatus of the American Society of Mechanical Engineers, revised and amended to the date of the adoption of this chapter, which is hereby made a part of this chapter by reference.

Sec. 30-7. Emissions to be visible to operators. [Code 1955, § 3-2.8.]

Each person who shall be the owner, agent or lessee of fuel-burning equipment, except such as use gas fuel only, and except coal-burning boilers of not to exceed 20 horsepower rating or of 2,500 square feet, or less, of equivalent direct radiation, shall provide means whereby the firefighter, engineer or other person firing the fuel-burning equipment may be enabled to know, without leaving the boiler or furnace room, whether smoke is being emitted contrary to the provisions of this chapter, so that the necessary corrections in firing may be made promptly.

Sec. 30-8. Persons liable under chapter. [Code 1955, § 3-2.7.]

Each person owning, operating or in charge or control of any equipment, who shall cause or permit or participate in any violation of this chapter, either as proprietor, owner, lessee, tenant, manager, superintendent, constructor, installer, mechanic, repairman, captain, janitor,

engineer, firefighter or otherwise, shall be individually and collectively liable for any penalties resulting from a violation of this chapter.

Sec. 30-9. Violations and penalties—generally.

Each violation of any provision of this chapter shall be deemed a misdemeanor and shall be punishable by a fine not to exceed $500 or imprisonment for a period not to exceed 90 days, or both, and shall be subject to the nuisance proceedings referred to in Section 1-10, where applicable.

Sec. 30-10. Certain violations constitute nuisances per se. [Code 1955, § 3-2.9.]

Every violation of the provisions of this chapter in respect to the emission of smoke, soot, dust or fumes shall constitute a nuisance per se.

Chapter 31

SOLICITATIONS

Sec. 31-1. "Solicit" defined.

Sec. 31-2. License required; exceptions.

Sec. 31-3. Applications generally; standards for granting license; applicability of Chapter 17.

Sec. 31-4. Contents of application.

Sec. 31-5. Identification of solicitors.

Sec. 31-6. Soliciting funds, alms, etc., for personal use prohibited; soliciting during Tulip Time week prohibited.

Sec. 31-1. "Solicit" defined. [Code 1955, § 3-5.1.]

For the purposes of this chapter, the term "solicit" shall have its commonly accepted meaning and shall include oral and written requests and shall apply to direct and indirect solicitation.

Sec. 31-2. License required; exceptions. [Code 1955, § 3-5.2.]

No person shall solicit any funds or assistance for any purposes other than those prohibited by Section 31-6, unless such person shall have first obtained a license to do so; provided, that the prohibition herein contained shall not apply to the solicitation of funds or contributions by representatives of an organization from its own members.

Sec. 31-3. Applications generally; standards for granting license; applicability of Chapter 17. [Code 1955, § 3-5.2.]

(a) To whom application made; form. Each application for a license to solicit within the City shall be made to the City Clerk, on forms provided by him or her.

(b) Applications from national, state, City, etc., organizations. In the case of national, state, regional and City organizations which propose to solicit on an organized basis, the application for a license to solicit shall be made by the promoter or other person or agent designated by such organization, who shall file with the City Clerk proof of his or her appointment or designation as the promoter or agent of such organization for the purpose of soliciting in the City.

(c) Submission of applications to Council; standards for granting license. Applications for licenses to solicit upon the streets or other public places of the City shall be submitted by the City Clerk to the Council not later than its next regular meeting. The Council shall grant any such license upon a showing in the application filed that the proposed solicitation is for a religious, charitable, philanthropic, health, benevolent, educational or cultural purpose, that not more than 15% of the gross amount to be collected under the provisions of the license applied for will be paid to or retained by the collector thereof or will be paid to defray the cost of collection, and that the object of, or the conduct of, the solicitation will not be a fraud upon the public.

(d) Soliciting on private premises. In each case of an application for a license to solicit upon private premises within the City, the City Clerk shall grant a license to solicit upon the same showing as is set forth for the granting of a license by the Council.

(e) Applicability of Chapter 17. The application for, granting of, expiration of and the suspension and revocation of licenses to solicit shall be subject to the provisions of Chapter 17.

Sec. 31-4. Contents of application. [Code 1955, § 3-5.3.]

The application forms provided by the City Clerk under the provisions of this chapter shall be designed to show, among other things, the identity of the person or organization making application for a license to solicit, the purpose or object to which funds collected by the solicitation will be devoted, the name of the local person in charge of or responsible for the solicitation on behalf of an organization, the amount which will be retained by or paid to such person and his or her subordinate collectors out of any funds collected by the solicitation, and the percentage of all funds collected which will be used or are estimated to be used to defray the cost of solicitation and collection. The City Clerk may also require of any applicant such other information as he or she deems pertinent for the purpose of determining the bona fide nature of the application and the object or purpose for which the proposed solicitation is intended. Such additional information may include financial statements.

Sec. 31-5. Identification of solicitors. [Code 1955, § 3-5.4.]

Each individual licensee under the provisions of this chapter and each person charge of or responsible for solicitation on behalf of an organization, under the requirements of Section 31-2, shall be identified by the license issued to him or her. Each such person shall furnish to his or her subordinate solicitors adequate identification to be approved by the City Clerk. No person shall solicit without such identification, nor shall any solicitor fail to show his or her identification upon request by any police officer or any person from whom solicitation is made.

Sec. 31-6. Soliciting funds, alms, etc., for personal use prohibited; soliciting during Tulip Time week prohibited. [Code 1955, § 3-5.1; Ord. No. 799.]

No person shall solicit funds, alms, aid, assistance or support for himself nor shall a license be issued to solicit funds during the week of the annual Tulip Time Festival held each year during the month of May.

Chapter 32

STREETS AND SIDEWALKS

ARTICLE I
In General

Sec. 32-1. Placing merchandise, material or signs or engaging in commercial activity upon streets, etc.

Sec. 32-2. Driving, etc., upon new pavement, etc., moving, defacing, signs, barriers, etc.

Sec. 32-3. Encroachments generally.

Sec. 32-4. Suspending object over streets, etc.

Sec. 32-4.1. City event signs.

Sec. 32-4.2. Violations and penalties.

ARTICLE II
Street Cuts and Excavations

Sec. 32-5. Permit required.

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Sec. 32-7. Excavation of paved street, etc., within two years of paving or thereafter.

Sec. 32-8. Notice to property owner to make gas and sewer connections prior to paving.

Sec. 32-9. (Reserved)

ARTICLE III
Sidewalks, Curbs and Driveways

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Generally

Sec. 32-10. Sidewalk openings.

Sec. 32-11. Snow, ice, obstructions, rubbish, etc., on sidewalks.

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Construction, Repair, Etc., Generally

Sec. 32-13. (Reserved)

Sec. 32-14. (Reserved)

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Sec. 32-16. General requirements.

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Sec. 32-45. Street performer permits; conditions for issuance.

Sec. 32-45.1. Amplification device permits; conditions for issuance.

Sec. 32-46. Rules and regulations.

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Sec. 32-48. Complaints; appeals.

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Sec. 32-51. Fire dock regulations.

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Sec. 32-62. Business license.

Sec. 32-63. Application.

Sec. 32-64. Review of application.

Sec. 32-65. Conditions for issuance.

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Sec. 32-70. Operator standards.

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Sec. 32-74. Effective date/emergency ordinance.

ARTICLE I
In General

Sec. 32-1. Placing merchandise, material or signs or engaging in commercial activity upon streets, etc. [Code 1955, § 5-1.7; Ord. No. 452; Ord. No. 1530, 3-4-2009]

No person shall place any merchandise, material or sign upon, or engage in commercial activity upon, any sidewalk, street or alley; provided, however, that:

(a) The City Manager may issue a written permit which shall be valid for a period of not more than 90 days allowing the temporary storage of a reasonable quantity of building and construction materials thereon, which permit shall impose such limitations and

requirements as shall protect the safety and general welfare of the public. Before a permit is issued, the applicant shall pay a permit fee as established by resolution of the City Council.

(b) Upon application, the Council of the City may, in its discretion, allow a temporary commercial use of streets, alleys or sidewalks if it determines that the proposed use will not unduly interfere with the public use thereof. If such proposed use be granted, the Council shall impose such conditions and requirements to such use as are appropriate to safeguard the public health and safety, to assure needed passage area for pedestrians or vehicles, or both, and to prevent the creation of a public nuisance. The right to exercise any such commercial use of a public street, alley or sidewalk may be terminated forthwith by the Council without notice or hearing thereon.

(c) For purposes of this chapter, the occupant of adjacent property, or in the case of unoccupied property, the owner shall be rebuttably presumed to be the owner of the material or commercial activity for any enforcement activities or violations of this chapter.

Sec. 32-2. Driving, etc., upon new pavement, etc., moving, defacing, signs, barriers, etc. [Code 1955, § 5-1.13]

(a) No person shall go upon, drive or cause to be driven any animal or vehicle on any new pavement, sidewalk, curbing, gutter or other construction work until the same has been completed and any street closing sign or barricade posted or placed thereon has been removed by the proper City officer or employee or other person who is responsible for such construction.

(b) No unauthorized person shall move, alter, deface, injure or destroy any part of accessory of any street or alley or any sign or barricade erected or placed to protect, warn or guide the public.

Sec. 32-3. Encroachments generally. [Code 1955, § 5-1.8; Ord. No. 1530, 3-4-2009]

If any building, fence or other structure, or any tree, hedge or shrub shall extend near to or in any manner encroach upon any part of any street, alley or sidewalk so as to interfere with the public safety or convenience, the enforcing officer shall serve notice upon the owner or occupant of the premises where such encroachment exists, or if the premises are unoccupied and the owner is a nonresident, then by posting such notice in a conspicuous place upon the premises, specifying the extent and location of such encroachment and requiring the owner or occupant to remove the same within 30 days. Refusal or failure to comply with such notice shall be deemed to be a violation of this Code.

Sec. 32-4. Suspending object over streets, etc. [Code 1955, § 5-1.14]

No person shall suspend anything over any sidewalk or street area unless expressly authorized in this code.

Sec. 32-4.1. City event signs. [Ord. No. 1429, 10-19-2005]

The City, including all of its departments, the Mainstreet/Downtown Development Authority (the "DDA"), and the Downtown Principal Shopping District (the "PSD") are authorized to place a sign in the street or on the sidewalk for advertising or identifying an event of the City, the DDA, or the PSD upon administrative approval of the City Manager. The request shall include all information that is required by the City Manager. A request for approval of the sign shall be made to the City Manager at least 10 days before the event.

Sec. 32-4.2. Violations and penalties. [Ord. No. 1530, § 32-51, 3-4-2009[1]]

A person who violates or fails to comply with Sections 32-1, 32-3, 32-4, 32-5, 32-11, 32-12 or 32-15 of this chapter is responsible for a Class II municipal civil infraction and subject to the civil fines set forth in the schedule of fees and charges in Section 2-118 of this Code or any other relief that may be imposed by the court. Each act of violation and each day upon which such violation occurs shall constitute a separate violation.

ARTICLE II
Street Cuts and Excavations

Sec. 32-5. Permit required. [Code 1955, § 5-1.11]

No person shall make any excavation or opening in or under any street, alley or public place without first obtaining a written permit from the City Engineer.

Sec. 32-6. Insurance prerequisite to granting permit; permit fee. [Code 1955, § 5-1.11; Ord. No. 995, 1-3-1990; Ord. No. 1069, 10-7-1992; Ord. No. 1530, 3-4-2009]

(a) Before a permit shall be issued, the applicant shall present evidence satisfactory to the City that public liability and property damage insurance has been obtained under which the applicant and the City are both insured with respect to any personal injury, death or property damage arising out of any act done or negligence committed while acting under any permit, whether such act or negligence be of the licensee, subcontractors of the licensee, or any other person who may be performing any act related to the authority granted by such permit. Such insurance shall be in the amount specified in the resolution on fees and insurance periodically adopted by City Council from an insurer authorized or licensed to do business in Michigan by the Commissioner of insurance and approved by the City. Every policy of insurance required by this section shall bear an endorsement to the effect that the insurer shall notify the licensee and the City in writing at least 10 days prior to reductions in coverage or the expiration or cancellation of such policy.

(b) Before a permit is issued, the applicant shall pay a permit fee as established by resolution of City Council.

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1. **Editor's Note: This ordinance originally added this material as Section 32-51. As a Section 32-51 already existed, the material was added as Section 32-4.2.**

Sec. 32-7. Excavation of paved street, etc., within two years of paving or thereafter. [Code 1955, § 5-1.11]

No person shall make any opening or excavation in or under a paved street or alley within a period of two years after completion of any paving or resurfacing thereof. If the public safety or welfare requires immediate action, the City Manager may suspend operation of this provision. The City Engineer may refuse the granting of a permit following the expiration of such two-year period if he or she deems that the opening or excavation applied for is unnecessary or could be reasonably avoided. Appeal may be had to the Council with respect to any decision of the City Manager or the City Engineer concerning the enforcement of the prohibition of this section. The decision of the Council on such appeal shall be final.

Sec. 32-8. Notice to property owner to make gas and sewer connections prior to paving. [Code 1955, § 5-1.11]

Before any street within the City is paved, it shall be the duty of the City Engineer to serve a written notice upon each owner of the premises abutting on such street, as shown by the City tax roll, requiring him or her, within 30 days from the date of such notice, to make all necessary gas and sewer connections that may be laid in such street.

Sec. 32-9. (Reserved)[2]

ARTICLE III
Sidewalks, Curbs and Driveways

DIVISION 1
Generally

Sec. 32-10. Sidewalk openings. [Code 1955, § 5-1.9]

(a) No person shall maintain, use or operate any trapdoor, coal hole or other sidewalk unless the doors or covers for such opening shall be of metal or reinforced concrete with nonslipping wearing surface and unless the surfaces thereto shall be flat with the surface of sidewalk, and shall present no hazard to traffic.

(b) No coal hole, trapdoor or other sidewalk opening shall be allowed to remain open, except when actually in use.

(c) When any coal hole, trapdoor or other sidewalk opening is open, such opening shall be protected by guards, not less than 32 inches in height and fully protecting all sides of the opening; provided, however, that the guard on the loading side may be removed therefrom during the period of loading and unloading.

2. Editor's Note: Former Section 32-9, which pertained to insurance requirements, adopted as § 5-1.12 of the 1955 Code, as amended by Ord. No. 426 and 1-3-1990 by Ord. No. 995, was repealed 3-4-2009 by Ord. No. 1530.

Sec. 32-11. Snow, ice, obstructions, rubbish, etc., on sidewalks. [Code 1955, § 5-1.6]

No person having the care, either as owner or occupant, of any house, building or lot shall permit any snow, ice, dirt, rubbish, including broken bottles and glass, filth, obstruction or other articles or any nuisance to remain upon any sidewalks in front of such house, building or lot for longer than 24 hours; and when ice is formed on any sidewalk, the owner or occupant of the abutting premises shall, within 12 hours after the same has formed, cause the same to be removed or cause salt, sawdust, sand or other abrasive to be strewn thereon.

Sec. 32-12. Curb cuts for driveways. [Code 1955, § 5-1.10; Ord. No. 426, § 1; Ord. No. 1225, 10-7-1998; Ord. No. 1530, 3-4-2009; 1-17-2018 by Ord. No. 1720]

(a) Permit required. No person shall make any opening in or through any curb in any street, alley or public place without first obtaining a written permit in accordance with this chapter from the City Engineer.

(b) Requirements generally. No permits shall be issued, except upon approval of the Council, for any curb cut serving as an approach to any service driveway across any curb, sidewalk or public property which does not comply with the requirements of Chapter 39, and those set forth in Subsection (b)(1) through (9).

(1) When the frontage of any premises does not exceed 40 feet in width, there may be constructed one service driveway only, and such driveway shall not exceed 10 feet in width which shall be in compliance with Subsection (b).

(2) When the frontage of any premises exceeds 40 feet in width, but does not exceed 50 feet in width, there may be constructed one service driveway which does not exceed 20 feet in width or two service driveways, when allowed by Chapter 39, each of which does not exceed 10 feet in width, which shall be in compliance with Subsection (b)(4).

(3) When the frontage of any premises exceeds 50 feet in width but does not exceed 100 feet in width, there may be constructed two service driveways when allowed by Chapter 39, each of which does not exceed 20 feet in width, three service driveways when allowed by Chapter 39, each of which does not exceed 10 feet in width, or one service driveway which does not exceed 20 feet width, and one which does not exceed 10 feet in width, and all of such driveways shall be in compliance with Subsection (b)(4).

(4) Not less than 18 feet of straight curb shall separate two curb cuts under one ownership.

(5) In case any one owner shall own nonresidential premises with a frontage in excess of 100 feet, each 100 feet, or fraction thereof, shall be considered as separate frontage.

(6) No curb cut shall be made within 10 feet of the right-of-way line of a street intersecting the street upon which the curb cut is made.

(7) The width of curb cuts and service driveways shall be determined by the City Engineer.

(8) No permanent cut may be made which, in the opinion of the City Manager, may interfere with the safety of the public.

(9) Width restrictions are measured at the right-of-way line for purposes of this section. An additional flare of three feet for residentially used properties, and an additional flare of five feet for nonresidentially used properties are allowed in addition to the maximum width at the right-of-way line.

(c) Plans and specifications. No such curb cut shall be made except in accordance with plans and specification established by the City Manager.

(d) Residential driveways in the Central Neighborhood District. In addition to the requirements set forth herein, curb cuts for residential driveways in the Central Neighborhood District shall comply with Section 39-58 of Chapter 39 of this Code.

DIVISION 2
Construction, Repair, Etc., Generally

Sec. 32-13. (Reserved)[3]

Sec. 32-14. (Reserved)[4]

Sec. 32-15. Permit required to construct or repair any sidewalk, crosswalk, driveway approach or curb. [Code 1955, § 5-1.3; Ord. No. 1530, 3-4-2009]

No person shall construct or repair any sidewalk, crosswalk, driveway approach or curb without first obtaining a written permit from the City Engineer. Before a permit is issued, the applicant shall pay a permit fee as established by resolution of City Council.

Sec. 32-16. General requirements. [Code 1955, § 5-1.3]

No person shall construct or repair any sidewalk, crosswalk, driveway approach or curb, except in accordance with the line, grade, slope and specifications established in this chapter. The City Engineer shall set proper grade and line stakes for such walks whenever the same shall have been permitted or ordered.

Sec. 32-17. Specifications for sidewalk construction. [Code 1955, § 5-1.5]

All sidewalks shall be constructed in accordance with the specifications on file in the office of the City Engineer.

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3. Editor's Note: Former Section 32-13, License–required; application; fee; expiration, adopted as § 5-1.3 of the 1955 Code, amended by Ord. No. 426 and 3-4-2009 by Ord. No. 1530, was repealed 10-7-2015 by Ord. No. 1662.

4. Editor's Note: Former Section 32-14, which pertained to license application requirements, adopted as § 5-1.2 of the 1955 Code, as amended by Ord. No. 426, 1-3-1990 by Ord. No. 995, and 10-7-1992 by Ord. No. 1069, was repealed 3-4-2009 by Ord. No. 1530.

Sec. 32-17.1. Construction of residential sidewalks required; certificate of occupancy; administrative variance. [Ord. No. 1530, 3-4-2009; amended 1-17-2018 by Ord. No. 1720]

(a) Definitions.

ENFORCING OFFICER — The Director of Community and Neighborhood Services or its authorized representative.

FRONT YARD — The dimension along the front line of the residence and the right-of-way extending the full width of the lot. On a corner lot, the narrowest lot dimension along a right-of-way shall be deemed the front yard.

RESIDENCE — A newly constructed building or structure of four dwelling units or less, constructed and designed for residential occupancy.

RIGHT-OF-WAY — The open, unoccupied space between the traveled portion of the roadway and the front yard or side yard lot line of the residence.

SIDE YARD — The dimension along the right-of-way extending from the front yard to the rear yard. On a corner lot, the widest lot dimension along a right-of-way shall be deemed the side yard.

SIDEWALK — A path designed for pedestrian or bicycle travel of Portland cement, brick pavers, or other material being deemed similar by the City Engineer and constructed in accordance with the specifications of the City Engineer effective on the date of the issuance of a building permit for the construction of the residence or other structure.

(b) Construction of sidewalks; residential requirement; other.

(1) Commencing on August 7, 1991, all residences in the City shall be constructed with a sidewalk in the right-of-way abutting and extending the width of the front yard. All residences constructed on corner lots shall be constructed with a sidewalk in the right-of-way abutting and extending the width of the front yard and side yard of the lot of the residence. Sidewalks shall be constructed to extend and connect adjacent and adjoining sidewalk installations or shall be installed within the right-of-way as determined by the City Engineer.

(2) Notwithstanding the foregoing provisions of Subsection (b)(1) hereof, all residential structures containing more than four units, churches, schools, commercial uses, or any other developments which are required to install sidewalks as a condition of subdivision approval, site plan approval, restrictive covenant, or development agreement, shall construct sidewalks as required at the time of approval.

(c) Issuance of certificate of occupancy. The enforcing officer shall not issue a certificate of occupancy unless the residence shall comply with the provisions of this section. The enforcing officer may issue a conditional certificate of occupancy if compliance with this section is rendered reasonably impracticable or impossible by weather, seasonal construction limitations, or pending construction in the right-of-way. The duration of a conditional occupancy permit shall not exceed six months beyond the date of occupancy when issued for weather or seasonal reasons, nor six months beyond the

completion of construction for other reasons. Occupancy of a residence or structure beyond the expiration of the conditional occupancy permit shall constitute a violation of this section.

(d) Administrative variances. If a property owner clearly demonstrates that literal enforcement of this section is impractical or will impose undue hardship in the use of the residence because of peculiar conditions pertaining to his or her land, the City Manager may permit a variance as he or she administratively determines to be reasonable and within the general purposes of this section and chapter upon application of the criteria set forth in Subsection (e) hereof. In the event the City Manager determines to grant the request for variance, the City Manager shall file a report with the City Council delineating the findings of fact and conclusions for the grant of variance. The variance shall be effective within 30 days of the filing of the report by the City Manager unless the City Council shall reverse the determination of the City Manager.

(e) Criteria for variances; findings; conditions.

(1) City Manager considerations. In making an administrative determination to grant a variance, the City Manager shall consider the following:

a. The location of existing sidewalk and its proximity to the sidewalk to be constructed for the residence;

b. The existence of grades, open ditches, and topographical features of the lot which would render the construction of sidewalk impractical or constitute an unreasonable hardship;

c. Special circumstances or conditions, including but not limited to lot size, configuration, and proximity of inconsistent uses which would mitigate against the strict application of this chapter;

d. The anticipated construction of sidewalk by the City, private property owners, or developers within reasonable proximity of the residence.

(2) Provisions to grant variance. No variance shall be granted unless the City Manager finds that:

a. There are special circumstances or conditions affecting the property of the residence such that the strict application of the provisions of this chapter would deprive the owner of the reasonable use of his or her land.

b. The variance is necessary for the preservation and enjoyment of a substantial property right of the applicant.

c. The granting of the variance will not be detrimental to public health, safety, or general welfare and would not create a precedent which would prevent the enforcement of the ordinance for similar conditions or situations in the area in which the residence is located.

(3) Conditions. In permitting any such variance, the City Manager may impose such conditions as shall be necessary to secure the objects of this section or to preserve the public health, safety, and general welfare.

(4) Recommendation of City Engineer and other staff. In reviewing the request for a variance, the City Manager may request input and recommendations from the City Engineer or other departments of the City.

(5) Denial of variance. Upon the denial of a variance by the City Manager, an aggrieved party may appeal the denial to the City Council within 21 days of the date of denial. The City Council shall conduct a public hearing, at which time the aggrieved party may present reasonable evidence to support the request for a variance. The Council shall apply the criteria set forth in Subsection (e)(1) hereof, and shall grant a variance only upon the findings set forth in Subsection (e)(2).

(6) Duration of variance. A grant of variance that is not limited by a specific duration shall be deemed indeterminate in length, but shall in no instance be considered a permanent waiver of sidewalk requirements, nor abrogate in any way the right of the City to order, install, or assess for sidewalks in accordance with other sections of this Code or Charter upon a determination that conditions are necessary for the construction of sidewalk in accordance with public need, health, safety, and general welfare.

(f) Building permits issued after effective date. This section shall apply to residences or structures constructed pursuant to building permits issued or renewed after August 28, 1991.

Sec. 32-18. Construction or relaying of sidewalks upon resolution of Council. [Code 1955, § 5-1.4; Ord. No. 846]

(a) Notice to abutting owners — Generally. Whenever the Council shall, by resolution, determine that a sidewalk be constructed or relaid, the Council shall direct the City Clerk to serve notice on the abutting property owners of the area to be constructed and shall set a date for a public hearing to review the proposed construction of the public improvement.

(b) Requirements of notice. The notice required by Subsection (a) of this section shall designate the following:

(1) The time, date and place of the public hearing where Council shall determine whether the sidewalk will be constructed or relaid. The public hearing shall not be scheduled less than 14 days after the adoption of the resolution by Council specifying the area for the construction of the proposed public improvement. Notice shall be mailed to the abutting property owners not less than 10 days prior to the public hearing.

(2) The projected cost of construction and the estimated front foot cost to the abutting property owner.

(3) The right of the abutting property owner to attend the public hearing and object to the proposed sidewalk construction or the estimated cost of construction.

For the purposes of this subsection, notice shall be mailed to the property owner listed on the tax rolls of the City abutting the public improvement by first class mail.

(c) Public hearing. The Council shall conduct a public hearing in accordance with the rules of the Council. Upon conclusion of the public hearing, the Council shall, by resolution, determine the necessity of the construction of the sidewalk and the estimated front foot cost to the abutting property owner and order that the sidewalks be constructed by the abutting property owner within 30 days of the public hearing. The resolution shall further establish the estimated cost, rate of interest and method of payment by the abutting property owner if the sidewalk is not constructed in accordance with Subsection (d) of this section.

(d) Duty of abutting property owners; construction, etc., by City Engineer upon failure of property owner to do so; expense. Every person so notified shall construct or relay the sidewalk in the manner and within the time required in the resolution of Council ordering the same, and under the general supervision and direction of the City Engineer.

In case any sidewalk shall not be constructed or relaid within the time specified by the Council, or in the manner required by the provisions of this chapter, the City Engineer shall construct or relay the same, unless otherwise ordered by the Council, and shall keep an accurate record of the expense of such construction or relaying, including his or her own time, and the amount of such expenses, properly itemized, shall be reported to the Council, duly verified by the City Manager. Such report shall also contain a description of the lot or premises upon or in respect to which the expense was incurred and the name of the owner, if known, chargeable therewith. The expense of the construction or relaying of such sidewalk shall be assessed to the owner in the manner provided in Section 15.19 of the Charter of the City.

Sec. 32-19. Repair of sidewalks upon notice of City Clerk—generally. [Code 1955, § 5-1.4; Ord. No. 846]

Whenever any sidewalk shall require repair, reconstruction or rehabilitation, the Council shall, by resolution, direct the City Clerk to serve notice and conduct a public hearing in the same manner as set forth in Section 32-18, the terms of which are incorporated herein by reference. Upon conclusion of the public hearing, the Council shall, by resolution, determine the necessity of the repair, reconstruction or rehabilitation of the sidewalk and order that the sidewalk be reconstructed, repaired or rehabilitated within 30 days of the public hearing.

Sec. 32-20. Repair by City Engineer upon failure of owner to comply with notice; expense. [Code 1955, § 5-1.4; Ord. No. 846]

If a sidewalk designated by the Council is not repaired, reconstructed or rehabilitated within the time fixed in the resolution of the Council, the City Engineer shall proceed to repair, reconstruct or rehabilitate such sidewalk at the expense of the owner of the abutting lot or premises. The City Engineer shall maintain an itemized account for all expenses incurred, which shall be reported to the Council and verified by the City Manager. The Council shall assess the costs of the repair, restoration and reconstruction of the sidewalk in the manner set forth in Section 15.20 of the Charter.

ARTICLE IV
Numbering Buildings

Sec. 32-21. Required; plan and system generally. [Code 1955, § 5-1.1]

All buildings fronting on any street or avenue within the City shall be numbered, and such numbering shall be in accordance with the following plan and system, except as otherwise provided by this article:

The City is hereby divided into two districts, with Central Avenue as the dividing line, and numbering shall run east and west from that avenue. The numbering on the streets and avenues running north and south and northerly and southerly shall commence on the north section line of Sections 29 and 30, Town 5 North, Range 15 West, and run thence south to Thirty-second Street. A number shall be assigned to every 22 feet frontage on all streets and avenues, both those running north and south and those running east and west. The odd numbers shall be given to the north and east sides of the streets and avenues, and the even numbers to the south and west sides of the streets and avenues; provided, that the Council may at any time by resolution exempt from the provisions of this section such portions of the City for such time as it may deem proper.

Sec. 32-22. Numbers to be reserved for vacant lots, etc. [Code 1955, § 5-1.1]

A number shall be reserved and allowed for every 22 feet of any vacant or unplatted lot or parcel of land fronting or facing on any street or avenue within the City.

Sec. 32-23. Numbers to be affixed by owners; size and location of numbers. [Code 1955, § 5-1.1; Ord. No. 1015, 2-6-1991]

So that emergency service workers such as police, firefighters, and emergency medical technicians can quickly locate a particular location in an emergency, the owner, occupant, or agent of each building shall affix or inscribe the proper address number according to the plan set forth in Section 32-21 and according to the following rules:

(a) Every building located 50 feet or less from the edge of a public roadway shall have Arabic numbers not less than three inches high displayed on the side of the building facing the street to which the address is assigned. The numbers shall be clearly visible and readable to the occupants of an emergency service vehicle on the public roadway.

(b) Every building located more than 50 feet but 70 feet or less from the edge of a public roadway shall display numbers in accordance with Subsection (1) except that the numbers shall be not less than four inches in height. The provisions of this subsection shall not apply if the numbers are also displayed at the street in accordance with Subsection (d) below.

(c) Every building located more than 70 feet but 90 feet or less from the edge of a public roadway shall display numbers in accordance with Subsection (1) except that the numbers shall be not less than five inches in height. The provisions of this subsection shall not apply if the numbers are also displayed at the street in accordance with Subsection (d) below.

(d) Every building located more than 90 feet from the edge of a public roadway, and/or any building for which the numbers are not clearly visible and readable to the occupants of an emergency service vehicle on the public roadway, shall have, in addition to the numbers specified in Subsection (a), Arabic numbers not less than three inches in height displayed on a post, or on a regulation United States Postal Service mailbox, or on a sign, which post, mailbox, or sign shall be located directly in front of the building on the same side of the public roadway and not more than 10 feet from the edge of the roadway. The numbers shall be clearly visible and readable to the occupants of an emergency service vehicle on the public roadway.

(e) Every multifamily residential apartment complex shall have its assigned number displayed in accordance with Subsection (d) above. In addition, each individual building in such a complex shall have Arabic numbers and/or letters displayed on the side of the building in such a manner as to be clearly visible and readable to the occupants of an emergency service vehicle on the public roadway or on the private driveway of the complex. Further, each individual apartment shall have Arabic numbers and/or letters not less than three inches high displayed on or near the front entrance to the apartment.

(f) The color of the Arabic numbers and/or letters shall be in contrast to the immediate background to which they are affixed or inscribed. The numbers shall be displayed so as to be readily visible and readable during normal daylight hours.

(g) The above sections shall be construed to mean that, if the Arabic numbers and/or letters as specified herein are hidden by an awning, overhang, or other obstruction, or if the numbers are not clearly visible and readable to the occupants of an emergency service vehicle on the public roadway or on the private driveway of a complex, then the owner, occupant, or agent of the building shall place supplementary Arabic numbers and/or letters in the manner determined by the enforcing official to best meet the intent of this article.

(h) Building numbers may be spelled out for decorative purposes; however, Arabic numbers meeting the intent of this section shall also be required.

(i) All applicants for building permits for new construction shall be given a copy of the requirements for numbering buildings, and each such applicant shall agree to comply with these requirements as a condition of receiving the permit. A building shall be numbered in accordance with the provisions of this article before any certificate of occupancy is granted by the Building Inspector.

(j) The inspector in charge of the Fire Prevention Bureau of the City is designated as the enforcing officer of this article.

(k) For the purposes of this article, an "owner" shall be defined as: any person, agent, operator, firm, or corporation having a 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. For the purposes of this article, the owner shall be presumed to be the designated person or entity listed on the tax rolls

maintained by the City for the structure or building, unless the enforcing officer is otherwise notified in writing.

Sec. 32-24. Procedure in case of building not properly numbered—generally; notice. [Code 1955, § 5-1.1; Ord. No. 1015, 2-6-1991]

Whenever the owner, occupant, or agent of a building shall have failed to affix or inscribe house numbers as provided above, it shall be the duty of the designated enforcing official to serve or cause to be served on the owner, occupant, or agent, a written or printed notice instructing the owner, occupant, or agent to properly affix or inscribe the house numbers as provided in this article and to do so within 10 days from the date of service. Such notice shall be provided in accordance with the provisions of Section 1-6 of the Holland City Code.

Sec. 32-25. When enforcing officer to affix number, generally. [Code 1955, § 5-1.1; Ord. No. 1015, 2-6-1991]

In the event that the owner, occupant, or agent shall neglect, fail, or refuse to properly affix or inscribe the house numbers as provided in Section 32-24 within 10 days from the date of service, the enforcing official shall properly affix or inscribe the house numbers as provided in this article.

Sec. 32-26. Costs. [Code 1955, § 5-1.1; Ord. No. 1015, 2-6-1991]

In the event that the enforcing official affixes or inscribes the house numbers on a building as provided in Section 32-25, the cost thereof shall be assessed against the premises and spread upon the next tax roll in accordance with Section 15.20 of the City Charter, unless such cost has been paid by the owner, occupant, or agent of such building.

ARTICLE V
Sidewalk or Outdoor Cafes

Sec. 32-27. Definitions. [Ord. No. 980, 6-21-1989;[5] Ord. No. 1391, 6-2-2004]

OUTDOOR CAFE — Any accumulation of tables, chairs, and other appurtenances related to and used for the sale of food and drink on private property, not fully enclosed by a structure.

SIDEWALK CAFE — Any accumulation of tables, chairs, and other appurtenances, related to or used for the sale of food and drink on public sidewalk property, not fully enclosed by a structure.

5. **Editor's Note: This ordinance originally added a new Art. IV to this Ch. 32. As an Art. IV already existed, this new material was added as Art. V.**

Sec. 32-28. Application for permit. [Ord. No. 980, 6-21-1989; Ord. No. 1391, 6-2-2004]

Prior to the commencement of any sidewalk cafe or outdoor cafe, a person, firm, or entity wishing to operate such a cafe shall file an application for a permit with the Department of Community and Neighborhood Services. The application shall contain all of the following:

(a) The full name, telephone number, and business address of all persons or entities who will be involved in the ownership and operation of the sidewalk cafe.

(b) The address of the property on which the outdoor cafe will be located or the property to which the sidewalk cafe is adjacent.

(c) A statement of the operator's proposed time period and hours of operation, as well as the proposed types of activity.

(d) For a sidewalk cafe, a signed addendum and proof of insurance.

(e) Such additional requirements to determine compliance with Section 32-29.

Sec. 32-29. Requirements for issuance of permit. [Ord. No. 980, 6-21-1989; Ord. No. 1004, 4-18-1990; Ord. No. 1391, 6-2-2004; Ord. No. 1444, 2-15-2006; Ord. No. 1469, 3-7-2007; Ord. No. 1554, 11-17-2010]

(a) A person wishing to establish a sidewalk cafe or outdoor cafe may do so only if all of the following conditions are met. The Department of Community and Neighborhood Services shall issue a permit authorizing the cafe only if it meets the following requirements:

(1) The tables, chairs, and other appurtenances of the outdoor cafe are placed on the same parcel where a licensed food service establishment is located, or in the case of a sidewalk cafe, on the sidewalk adjacent to a building containing a licensed food service establishment owned or leased by the person operating the cafe;

(2) The tables, chairs, and other appurtenances of the cafe are placed in a way that they do not hinder safe pedestrian use of the sidewalks and do not block ingress or egress from any building. There shall be provided, at all times, an unobstructed, straight sidewalk aisle of not less than six feet in width. For sidewalk and outdoor cafes within the C-3 Central Business District, the unobstructed sidewalk aisle shall be a minimum of eight feet; however, the Design Review Board shall have the authority to reduce this dimension to no less than six feet when the Board determines that a lesser clear dimension is adequate and appropriate given the volume of pedestrian traffic; the placement, nature and extent of intrusion of streetscape elements and furnishings; the location of building entrances or gathering places; the location and volume of activity of waiting areas for business patrons; or other similar factors. Cafes within the C-3 Central Business District approved prior to the effective date of this amendment (November 17, 2010) shall be allowed to continue, subject to City permitting, with the previously approved unobstructed, straight sidewalk aisle;

(3) The tables, chairs, and other appurtenances of the sidewalk cafe are not permanently anchored to the sidewalk in any way;

(4) The establishment and operation of the sidewalk cafe does not occur before March 1 nor after December 1 of the same year; however, a nonfenced cafe and associated appurtenances shall not be permitted on the day of a Tulip Time Festival parade until one hour after such parade;

(5) It shall be the responsibility of the cafe owner that the area in and about the cafe is kept free of debris and litter;

(6) The operation of the cafe occurs only during the normal business hours of the licensed food service establishment within the building owned or leased by the person operating the cafe;

(7) The appearance of the tables, chairs, and other appurtenances of the cafe shall be compatible with the architectural character of the building which it is in front of and with the surrounding area in general. Prior to the issuance of the permit, the Department of Community and Neighborhood Services shall receive approval from the Design Review Board of the Downtown Development Authority determining that this condition has been met for those sidewalk cafes and outdoor cafes located in the C-3 Central Business District;

(8) Only the service and consumption of food and beverage products shall be allowed; and

(9) The applicant has complied with all applicable ordinance requirements of the City and state relating to the outdoor business operation and, if the sidewalk cafe is located in a public right-of-way, indemnifies the City and maintains insurance in amounts established by resolution by the City Council.

(b) A permit for a sidewalk cafe shall expire after 360 days.

(c) A permit for an outdoor cafe shall expire after the operation of the cafe has been abandoned for a period of time exceeding 360 consecutive days.

Sec. 32-30. Issuance of permit. [Ord. No. 980, 6-21-1989; Ord. No. 1391, 6-2-2004; Ord. No. 1530, 3-4-2009]

The issuance of a sidewalk cafe permit or outdoor cafe permit by the Department of Community and Neighborhood Services shall require that the operator and/or permit holder shall continue compliance with the provisions of this chapter, and any special provisions as shall be required by the Department of Community and Neighborhood Services to ensure compliance with this chapter.

Sec. 32-31. Permit fees. [Ord. No. 980, 6-21-1989; Ord. No. 1069, 10-7-1992; Ord. No. 1391, 6-2-2004]

Any person, requesting issuance of the sidewalk cafe permit for a sidewalk cafe or an outdoor cafe shall pay the permit fee as established by resolution adopted by City Council.

Sec. 32-32. through Sec. 32-39. (Reserved)

ARTICLE VI
Street Performers

Sec. 32-40. Intent. [Ord. No. 1403, 2-2-2005]

The City hereby finds and declares: Street performers provide a public amenity that enhances the character of the City; however, the City also recognizes that street performers affect the health, safety, and welfare of the residents of the City and certain activities create congestion, excessive noise, illegal activity, and diminished aesthetics. The City acknowledges that its interest in regulating street performers must be accommodated within the parameters of the First Amendment of the U.S. Constitution and Article I, Section 5 of the Michigan Constitution. This article seeks to impose reasonable time, place and manner restrictions on street performers to the extent necessary to ensure the safety of performers, their audiences and the general public and to prevent unreasonable interference with residents' enjoyment of peace and quiet in their homes or the ability of businesses to conduct business.

Sec. 32-41. Definitions. [Ord. No. 1403, 2-2-2005; Ord. No. 1521, 11-5-2008]

The following words and phrases shall be interpreted and construed in accordance with the following definitions.

(a) CONTEMPORARY COMMUNITY STANDARDS — The customary limits of candor and decency in the City of Holland at or near the time of the alleged actions or speech.

(b) DESIGNATED PUBLIC AREA — An area on public property designated for street performances.

(c) OBSCENE — Any action or speech that meets all of the following criteria:

(1) The average individual, applying contemporary community standards, would find the action, taken as a whole, appeals to the prurient interest.

(2) The reasonable person would find the actions or speech, taken as a whole, lacks serious literary, artistic, political, or scientific value.

(3) The actions or speech describes sexual conduct in a patently offensive way.

(d) PERFORM — Includes, but is not limited to, the following activities: acting; singing; playing musical instruments; juggling; dancing; demonstrating pantomime; exhibiting magic; tumbling; stilt-walking; cycling; acrobatics; certain activities using fire; exhibiting puppetry; or other similar activity.

(e) PERFORMER — A person who has obtained a permit pursuant to this section.

(f) PRURIENT INTEREST — A shameful, morbid interest in nudity, sex, or excretion.

(g) SEXUAL CONDUCT — One or more of the following:

(1) Representations of ultimate sexual acts, normal or perverted, actual or simulated.

(2) Representations or descriptions of masturbation, excretory functions, or a lewd exhibition of the genitals.

(h) SIMULATED — The explicit description of any types of conduct set forth in the definition of sexual conduct, which creates the appearance of such conduct.

(i) ULTIMATE SEXUAL ACT — Sexual intercourse, fellatio, cunnilingus, and intercourse, or any other inference, however slight, of any part of a person's body or of any object into the genital or anal openings of another person's body, or description of sexual bestiality, sadomasochism, masturbation, or excretory functions.

Sec. 32-42. Prohibition of performing. [Ord. No. 1403, 2-2-2005]

No person shall perform in the streets, parks, or rights-of-way in the City without obtaining a permit and complying with the provisions of this article and the Code.

Sec. 32-43. Street performer application; fee. [Ord. No. 1403, 2-2-2005; Ord. No. 1441, 2-1-2006; Ord. No. 1521, 11-5-2008]

The Coordinator of the Mainstreet/Downtown Development Authority (the "Coordinator") shall issue street performer permits. Every person desiring to perform is required to make written application for a permit to the Coordinator and accompanied by a fee established by resolution of the City Council. Each member of a group of performers shall apply separately to the Coordinator. The application form provided by the Coordinator. The applicant shall truthfully and fully state the information requested on the application such as:

(a) The applicant's name, address, and telephone number;

(b) Whether the applicant is 18 years or older;

(c) Whether the performances include any of the following: tumbling; stilt-walking; cycling; aerobatics; or any activities using fire (collectively referred to as "extraordinary activities");

(d) A description sufficient for identification of the subject matter and method of the performing in which the applicant will engage;

(e) The period of time for which the permit would apply;

(f) The date, or approximate date, of the last permit that was issued to the applicant under this article;

(g) A statement as to whether or not any City permit or license issued to the applicant (or any related organization or entity) has ever been revoked, and if so, the reason for the revocation;

(h) Applicant's driver's license or personal identification number; and

(i) Such other information the Coordinator deems necessary to approve the application.

Sec. 32-44. Review of application. [Ord. No. 1403, 2-2-2005; Ord. No. 1441, 2-1-2006; Ord. No. 1521, 11-5-2008]

(a) Upon filing of the application for a permit, the Coordinator shall review and evaluate the application. In determining whether a permit should be issued, the Coordinator shall evaluate whether the application and the applicant meet all of the following:

(1) Whether the proposed activities comply with all of the provisions of this article and the Code;

(2) Whether the proposed activities involve the safe use of the streets by the public for vehicles and pedestrians;

(3) Whether the proposed activities would be obscene; and

(4) Whether the applicant has not previously violated two or more provisions of this article or the Code.

(b) For applications that include any extraordinary activities, the Chief of Police shall review and approve as to whether the extraordinary activities satisfy Section 32-44(a)(2).

(c) An applicant must be 18 years or older to obtain a permit. Notwithstanding, the Coordinator may approve a permit for a minor if that minor is performing in a group with other performers who are 18 years or older.

(d) The Coordinator shall not approve a permit unless all previous year's tickets for violation of this article are paid.

(e) If the applicant is a corporation, limited liability company, copartnership, or other such business entity, the person who will act as the principal in charge of the business to be licensed shall sign the application and all of the owners of the business entity shall meet all of the requirements for individual applicants.

(f) If the permit is not approved, the applicant may file an appeal as provided in Section 32-48.

(g) The Coordinator shall approve, deny, or approve with conditions an application for a street performer's permit within 15 days of it being filed.

Sec. 32-44.1. Review of application for amplification device permit. [Ord. No. 1441, 2-1-2006; Ord. No. 1521, 11-5-2008]

Upon filing of the application for an amplification device permit, the Coordinator shall review and evaluate the application under Subparagraphs (a) through (g) of Section 32-44. In addition, the application shall be reviewed and approved by the Chief of Police.

Sec. 32-45. Street performer permits; conditions for issuance. [Ord. No. 1403, 2-2-2005; Ord. No. 1441, 2-1-2006; Ord. No. 1521, 11-5-2008]

(a) Upon approval by the Coordinator, the permit shall be issued. If the approval by the Coordinator includes conditions of the applicant, all conditions shall be met prior to the issuance of the permit by the Coordinator.

(b) Prior to the issuance of a permit, a street performer shall agree to indemnify the City, the Mainstreet/Downtown Development Authority and the Downtown Principal Shopping District, their officials, employees, and agents from any liability arising out of the performer's street performance.

(c) Permits granted by the Coordinator shall be issued upon payment of the fees required and compliance with the requirements of this article.

(d) For a permit that involves any extraordinary activities, the applicant will provide a certificate of insurance for general liability insurance in an amount determined by the Coordinator and name the City of Holland, the Mainstreet/Downtown Development Authority, the Downtown Principal Shopping District, their officials, employees, and agents as additional insureds. Further, the Coordinator may impose reasonable conditions in the permit on the time, place, or manner of the performance of extraordinary activities to the extent that they may be harmful to the health, safety, or welfare of pedestrians or surrounding property.

(e) The permit shall bear the name and address of the person performing, the term of the permit, the type of performance and the location of performing, and a statement that the permit does not constitute an endorsement by the City of the purpose of the performing or of the person or group conducting the performance.

(f) A permit shall be valid from the date on which it is issued through December 31, or for the specific duration noted on the permit. A permit shall be nontransferable.

Sec. 32-45.1. Amplification device permits; conditions for issuance. [Ord. No. 1441, 2-1-2006]

Upon approval of the Chief of Police, City Manager, and the Coordinator, the Coordinator shall follow the procedure outlined in Subparagraphs (a) through (e) of Section 32-45 as it relates to the issuance of an amplification device permit.

Sec. 32-46. Rules and regulations. [Ord. No. 1403, 2-2-2005; Ord. No. 1441, 2-1-2006; Ord. No. 1521, 11-5-2008; Ord. No. 1556, 1-5-2011]

(a) Performances shall only take place in one of six designated locations in the Mainstreet/ Downtown Development Authority District as defined in Section 2-98 of the Code and approved by the Mainstreet/Downtown Development Authority Board. Notwithstanding, the Mainstreet/Downtown Development Authority Board may reasonably designate (and subsequently revoke) in writing additional locations for performances.

(b) Except as otherwise approved by the Coordinator, no performances will take places during the Tulip Time Festival. The Mainstreet/Downtown Development Authority Board may establish time, place and manner restrictions on performances during the Tulip Time Festival.

(c) A performer shall clearly display his or her permit while performing and shall allow inspection of the permit by any police officer or the Coordinator upon request.

(d) A performer may request contributions or money or property at a performance. Contributions may be received in any receptacle, such as an open musical instrument case, box or hat.

(e) A person who is under the age of 15 shall not perform unless accompanied at all times by a responsible adult who is 18 years of age or older. A person who is 15 years of age or older may perform without a responsible adult who is 18 years of age or older. Notwithstanding, the Coordinator may prohibit a person who is under the age of 18 from performing extraordinary activities if that person is not accompanied by a responsible adult who is 18 years of age or older and the extraordinary activities are determined to be unsafe for surrounding property and pedestrians.

(f) A performer shall be responsible for cleanup of all litter at the performance site.

(g) No performer shall:

(1) Perform within 10 feet of the outer edge of any entrance of any business, including, but not limited to, doors, vestibules, driveways, outdoor dining area entries, sidewalk cafes, and emergency exits during the hours that any business on the premises is open to the public or to persons having or conducting lawful business within those premises.

(2) Perform in any areas not designated by the Mainstreet/Downtown Development Authority Board.

(3) Perform in any area prohibited by the City Manager, his or her designee, or the Chief of Police in the case of an emergency.

(4) Use any of the following:

(i) Any knife, sword, torch, flame, axe, saw or other object that can cause serious bodily injury to any person, or engage in any activity, including, but not limited to, acrobatics, tumbling or cycling that can cause serious bodily injury to any person;

(ii) Any amplification device;

(iii) Any generator, wet cell battery with removable fill caps, or any other power source that poses a fire or public safety hazard; or

(iv) Any connection to or maintenance of an electrical cord to an adjacent building or to a City power source.

(5) Utilize or prevent the public from utilizing any public benches, waste receptacles, or other street furniture during the performance.

(6) Place any object on a public sidewalk which causes less than a six foot contiguous sidewalk width being kept clear for pedestrian passage.

(7) Perform with more instruments, props, equipment, merchandise or other items than the performer can reasonably transport or remove at one time.

(8) Place his or her instruments, props, equipment, merchandise or other items on a public sidewalk, public street, or public right-of-way for more than two hours without performing in accordance with the provisions of this article.

(9) Offer for sale or make available for a price or donation any items.

(10) Display any sign other than the street performer permit.

(11) Violate the applicable provisions of the code regarding noise.

(12) Block or obstruct a curb cut.

(13) Block or obstruct the free and safe movement of pedestrians. If a sufficient crowd gathers to observe a performer such that the passage of the public through a public area is blocked or obstructed, a police officer or fire official may disperse that portion of the crowd that is blocking or obstructing the passage of the public. If a performer cannot conduct a performance in a location without blocking or obstructing the passage of the public, a police officer or fire official may cause the performer to leave the location, but shall not prevent the performer from occupying another location in compliance with this article.

(14) Obstruct the visibility of a motorist.

(15) Perform in a manner that is obscene as defined by Section 32-41.

(16) Except as expressly permitted in this article, perform in any way that violates any other provisions of the code.

(h) The City Council authorizes the Mainstreet/Downtown Development Authority the authority to promulgate rules and regulations relating to the time, place, and manner of performances.

Sec. 32-47. Revocation of permits. [Ord. No. 1403, 2-2-2005; Ord. No. 1441, 2-1-2006]

(a) The Coordinator or an officer of the Police Department may immediately and without notice revoke a street performer permit or an amplification device permit if the underlying violation poses an immediate danger to the public health, safety, and welfare.

(b) Except as provided in Section 32-47(a), the Coordinator may revoke a street performer permit or an amplification permit if, upon receipt of written information or upon the Coordinator's own investigation, the Coordinator has reason to believe a performer:

(1) Has provided a false statement in the application;

(2) Has violated two or more provision of this article in a term set forth in a permit; or

(3) Has violated a provision of this article or the Code in a manner that is materially adverse to the protection of the public health, safety or welfare of the City.

Upon such determination, the Coordinator shall send written notice to the street performer at the address set forth in the application. The street performer shall have the right to a hearing before the Coordinator. Such hearing shall be set within 15 days of the written notice to the performer. If after a hearing, the Coordinator finds that the violation is supported by a preponderance of the evidence, the permit shall be revoked. The permit shall be null and void upon the Coordinator sending notice to the street performer. The street performer shall have the right to appeal as provided in Section 32-48.

(c) If a written complaint is filed alleging that a performer has violated any provisions of this article, the Coordinator shall promptly send a copy of the written complaint to the performer, together with a notice that an investigation will be made as to the truth of the complaint. The performer shall have the right to respond to the complaint within 10 days of it being sent and present evidence and respond to evidence produced by the investigation. Such hearing shall be held within 15 days of the complaint being sent to the street performer. If the Coordinator, after reviewing all relevant material, finds the complaint to be supported by a preponderance of the evidence, the complaint shall be certified and prosecuted by the City Attorney's office.

Sec. 32-48. Complaints; appeals. [Ord. No. 1403, 2-2-2005; Ord. No. 1441, 2-1-2006]

(a) If an applicant for a street performer permit is denied or if a permit is revoked by the Coordinator or an officer of the Police Department, the applicant or holder of a permit may appeal to and have a hearing before the Director of Community and Neighborhood Services. The appeal must be filed within 10 days of the denial or the revocation. The hearing shall be held within 15 days of the denial of the application or the revocation of the permit. The Director of Community and Neighborhood Services shall make a written determination, after presentation by the applicant, as to whether or not the grounds for denial, revocation or complaint are true. If the Director of Community and Neighborhood Services determines that such grounds are supported by a preponderance of the evidence, the initial determination shall be sustained. If the denial is affirmed, the Director of Community and Neighborhood Services' decision may be promptly reviewed by a court of competent jurisdiction.

(b) If an applicant for an amplification device permit is denied by the Coordinator, the City Manager, or the Chief of Police or if a permit is revoked by the Coordinator or an officer of the Police Department, the applicant or holder of a permit may appeal to and have a hearing before the City Council. The appeal must be filed within 10 days of the denial or the revocation. The hearing shall be held within 15 days of the denial of the application or the revocation of the permit. The City Council shall make a written determination, after presentation by the applicant, as to whether or not the grounds for denial, revocation or complaint are true. If the City Council determines that such grounds are supported by a preponderance of the evidence, the initial determination shall be sustained. If the denial is affirmed, the City Council's decision may be promptly reviewed by a court of competent jurisdiction.

Sec. 32-49. Appearance tickets. [Ord. No. 1403, 2-2-2005]

The Police Chief, the appointed officers of the Police Department, or such other officials as are designated by the Police Chief, are hereby authorized to issue and serve appearance tickets with respect to a violation of this article pursuant to Section 1 of Act 147 of the Public Acts of 1968, as amended [MCLA § 764.9c(2)]. Appearance tickets shall be in such form as determined by the City Attorney and shall be in conformity with all statutory requirements.

Sec. 32-50. Civil infraction. [Ord. No. 1403, 2-2-2005; amended 1-17-2018 by Ord. No. 1720]

Separately from any other remedies of the City, a person who violates this article is responsible for a Class I Municipal Civil Infraction and subject to the civil fines set forth in the schedule of civil fines in Section 2-111 of this Code and any other relief that may be imposed by the court.

ARTICLE VII
Fire Dock

Sec. 32-51. Fire dock regulations. [Ord. No. 1457, 7-5-2006[6]]

(a) For purposes of this section, the fire dock shall be that portion of Lake Avenue extending from the Lake Avenue road end at Lake Macatawa, Holland, Michigan, on which the City of Holland has constructed a dock extending north from the Lake Avenue road end at Lake Macatawa. The fire dock shall not be available for use and occupancy by the public from 12:00 a.m. to 5:00 a.m. The hours that the fire dock is not available for use and occupancy by the public shall be delineated on signage to be posted on the fire dock.

(b) No activity shall be conducted in, on, or over the fire dock which would violate any other provisions of the Ordinance Code of the City of Holland, including but not limited to the provisions of Chapter 20 defining a disorderly person.

(c) A violation of this article shall constitute a misdemeanor pursuant to Section 1-10 of the Ordinance Code of the City of Holland.

Sec. 32-52. through Sec. 32-60. (Reserved)

6. Editor's Note: This ordinance originally added a new Section 32-49 to this chapter. As the chapter already contained Sections 32-49 and 32-50, the section was redesignated as Section 32-51.

ARTICLE VIII
Horse-Drawn Carriages

Sec. 32-61. Definitions. [Ord. No. 1534, 6-3-2009]

The following words and phrases in this article shall be interpreted and construed in accordance with the following definitions:

CARRIAGE — A vehicle for transporting the operator and passenger.

COORDINATOR — The Coordinator of the Mainstreet/Street Downtown Development Authority.

HORSE-DRAWN — Propelled by a horse that is controlled by the operator.

HORSE-DRAWN CARRIAGE BOUNDARY — The area in which a horse-drawn carriage may operate, and is the Downtown Development District as defined in Section 2-98 of the Code.

OPERATOR — The person who is in control of the horse.

PASSENGER — A person who is being transported on the carriage and who is the not the operator.

STOP — A location for picking up and dropping off carriage passengers.

VEHICLE — A trailer towed by a vehicle or a vehicle designed for the transport of a horse or horses and used to transport horses.

Sec. 32-62. Business license. [Ord. No. 1534, 6-3-2009]

No person shall operate or cause to operate a horse-drawn carriage in the horse-drawn carriage boundary without obtaining a license and complying with the provisions of Chapter 17, and any other applicable provisions of the Ordinance Code.

Sec. 32-63. Application. [Ord. No. 1534, 6-3-2009]

The City Clerk shall issue horse-drawn carriage licenses. Every person desiring to operate a horse-drawn carriage is required to make written application for a license to the City Clerk and accompanied by a fee established by resolution of the City Council. The application form will be provided by the City Clerk. The applicant shall truthfully and fully state the information requested on the application such as:

(a) The applicant's name, address, and telephone number. In the event the applicant is a business entity (i.e., copartnership, limited liability company, corporation, etc.), or using a name for the business, the applicant shall submit the applicable formation documents (i.e., certificate of assumed name, certificate of copartnership, articles of organization, Articles of Incorporation, etc.) and the names and addresses of the owners of the business entity (i.e., shareholders, members, partners, etc.);

(b) Whether the applicant is 18 years or older;

(c) Carriage type, including a photo/image of each carriage;

(d) Operator's name, address, and telephone number;

(e) The proposed stops for pickup of passengers;

(f) The date of the last license that was issued to the applicant under this article;

(g) A copy of the insurance covering the carriages proposed to be licensed and requiring that the insurer will not cancel such policies without at least 30 days' prior written notice to the City;

(h) A statement as to whether or not any City permit or license issued to the applicant (or any related organization or entity) has ever been revoked, and if so, the reason for the revocation;

(i) Applicants driver's license or personal identification number;

(j) Fees charged;

(k) Certification that carriages will satisfy the provision of this article and the Ordinance Code; and

(l) Such other information the City Clerk deems necessary to review the application.

Sec. 32-64. Review of application. [Ord. No. 1534, 6-3-2009]

(a) Upon filing of the application for a horse-drawn carriage license, the City Clerk shall transmit the application to the Chief of Police who shall cause an investigation to be made regarding the character, fitness, and qualification of the applicant, the individual owners of a business entity applicant, and the proposed operators.

(b) The Chief of Police shall inspect the proposed carriages for cleanliness, appearance, and safety considerations to determine that such carriages comply with the provision of this article.

(c) Upon the completion of the investigation, the Chief of Police shall transmit the written recommendations and the reasons underlying the recommendations to the City Clerk's office as to whether a license shall be issued, denied, or issued with conditions.

(d) Upon issuance of a horse-drawn carriage license the City Clerk will confirm that the horse-drawn carriage complies with all of the articles of this article and Code, will involve safe use of the streets, whether the applicant has not previously violated two or more provisions of this article or Code.

(e) Upon receipt of the written recommendations from the Chief of Police and review of the requirements under this article and any other provisions of the Ordinance Code, the City Clerk shall either issue, deny, or issue the license with conditions.

(f) If the license is not approved, the applicant may file an appeal as provided in Section 17-20.

Sec. 32-65. Conditions for issuance. [Ord. No. 1534, 6-3-2009]

(a) Upon approval by the City Clerk, the license shall be issued. If the approval by the City Clerk includes conditions of the applicant, all conditions shall be met prior to the issuance of the permit by the City Clerk.

(b) Licenses granted by the City Clerk shall be issued upon payment of the fees required and compliance with the requirements of this article and any other applicable provisions of the Code.

(c) The license shall bear the name and address of the horse-drawn carriage applicant, and its term.

(d) The applicant will provide a certificate of insurance for general liability insurance in an amount determined by the Coordinator and name the City of Holland, the Mainstreet/ Downtown Development Authority, the Downtown Principal Shopping District, their officials, employees, and agents as additional insureds.

Sec. 32-66. License expiration. [Ord. No. 1534, 6-3-2009]

Unless otherwise provided in the provision of this Code requiring a license, the license term shall begin on May 1 in each year and shall terminate on April 30 of the following calendar year. Each license granted under the provisions of this Code shall expire on the next year succeeding April 30; provided, that any annual license issued between March 30 and April 30 of any year shall expire on April 30 of the calendar year next following the issuance thereof. In all cases where the provisions of this Code permit the issuance of licenses for a period of less than one year, any license so issued shall become effective on the date of the issuance thereof.

Sec. 32-67. License renewals. [Ord. No. 1534, 6-3-2009]

Upon application to the City Clerk, a license may be renewed for the ensuing year; provided, the applicant has complied with all the provisions of this chapter and the carriages for which the license is to be renewed have been found, after investigation and inspection by the Chief of Police determines that such carriages comply with all requirements of this chapter. If the license is not renewed, the applicant may file an appeal as provided in Section 17-20.

Sec. 32-68. Carriage standards. [Ord. No. 1534, 6-3-2009]

The licensee shall have all horse-drawn carriages comply with the following:

(a) Display at least two headlights with at least one on each side of the carriage and two taillights with at least one on each side of the vehicle which shall comply with the requirements of Section 257.695 of the Michigan Vehicle Code;

(b) Display a reflectorized slow-moving-vehicle emblem and other reflectors and in compliance with Section 257.688 of the Motor Vehicle Code;

(c) Display, to each side of the carriage a light that is visible at night;

(d) Be equipped with sufficient seats for the operator and all passengers;

(e) Seat not more than six adult occupants, or not more than six children under the age of 12 and one adult occupant, or not to exceed manufacturer's recommended safe seating capacity for the vehicle being used, in addition to the operator;

(f) Maintain a rubber surface on the wheel traction surface;

(g) Not be wider than eight feet, including fenders, running boards and safety mirrors and devices; and

(h) Display the horse-drawn carriage license in the carriage at all times.

Sec. 32-69. Horse care standards. [Ord. No. 1534, 6-3-2009]

The licensee and the operator of each horse-drawn carriage shall comply with the following:

(a) Horses must be fitted with a device to catch all manure or solid waste and dispose of it and any urine in an approved manner except when inside the transport vehicle;

(b) Horses are attended at all times, including when loading and discharging passengers;

(c) Horses have received a valid certificate of health or veterinarian certificate which shall be filed with the Coordinator annually; and

(d) Horses are not subject to any cruel or harassing treatment.

Sec. 32-70. Operator standards. [Ord. No. 1534, 6-3-2009]

The licensee and the operator of the horse-drawn carriage shall comply with the following:

(a) Be subject to all state and City traffic laws applicable to motor vehicles, in addition to all other applicable laws;

(b) Operators possess a valid state driver's license;

(c) Require all passengers to be seated except when boarding or discharging;

(d) Not operate during those days and times of day nor operate upon those streets, public places and quasi-public places prohibited by the City Clerk;

(e) Flush all liquid waste from the horse immediately with water and spray with the appropriate chemical to eliminate all noxious odors and bacteria;

(f) Not be required to give a person a ride in the carriage on demand of such person;

(g) Not operate a vehicle when a passenger is in possession of alcoholic liquor in a container which is open or uncapped or which has a broken seal;

(h) Be in control of the horse at all times;

(i) Have in their possession, and produce upon request, their horse-drawn carriage and state driver's licenses; and

(j) Maintain a log that substantiates that the carriage has been inspected by the operator, and meets all operating standards, at the beginning of every shift.

Sec. 32-71. Rules and regulations. [Ord. No. 1534, 6-3-2009]

(a) There shall be no more than teams of two horses for each individual carriage, and the carriage must be designed to be pulled by a team of two horses or less.

(b) Each operator must have signage for their carriage stop. One sign per stop is required and such signs shall comply with requirements of the Coordinator. Sign size requirements will be set by the Coordinator. Fees for carriage rides will be noted on their carriage stop signs. Fees for carriage rides will be noted on their carriage stop signs.

(c) No alcoholic beverages are allowed in carriages.

(d) Horse-drawn carriage stops shall be as approved and listed on the application. Any recommendations for revisions to these stops shall be submitted to and approved by Coordinator and the Chief of Police. Approved stops are the only locations where the carriage operators can pick up and drop off passengers.

(e) Horse-drawn carriages will be allowed to operate from 8:30 a.m. to 11:00 p.m. seven days a week year-round. The Chief of Police shall from time to time set operating times that are most acceptable in terms of public health and safety, but no operation of carriage service shall be allowed between the hours of 11:00 p.m. and 8:30 a.m.

(f) No horse-drawn carriages will be allowed to operate during the annual Tulip Time festival dates.

(g) While carriages are in use, and for purposes of loading and unloading horses, the operator is required to park vehicles in the northernmost sections of public parking lot 7C, Window on the Waterfront parking lot, or along the north side of 6th Street between College Avenue and Columbia Avenue.

(h) Operators may operate carriages on any streets within the Downtown Development District as defined in Section 2-98 of the Code, with the exception of 7th Street, 9th Street, River Avenue and Pine Avenue. Any recommendations for revisions to these routes shall be submitted to and approved by the Coordinator and the Chief of Police.

Sec. 32-72. Revocation and suspension. [Ord. No. 1534, 6-3-2009]

Any license issued pursuant to this chapter may be suspended by the Chief of Police for "good cause" as set forth in Section 17-18. If the Chief of Police finds that "good cause" under Section 17-18 has been established, he or she may institute revocation proceedings under Section 17-19.

Upon suspension or revocation of a license, operations shall cease with such carriages associated with such license. No person shall permit continued operation of such carriages. The operators shall cease to drive the carriages and no person shall employ or permit any individual to drive the carriages.

After the notice and hearing have been provided as set for in Section 17-19, the City Council may take action against the business entity, individual owners or any employee of the business entity or the individual owner.

Sec. 32-73. Civil infractions. [Ord. No. 1534, 6-3-2009]

Separately from any other remedies of the City, a person who violates this article is responsible for a Class I civil infraction and subject to a fine under Section 2-118.

Sec. 32-74. Effective date/emergency ordinance. [Ord. No. 1534, 6-3-2009]

This article was adopted as an emergency ordinance by the City Council of the City of Holland pursuant to Section 5.4 of the Holland City Charter, and shall be effective upon the date of adoption.

Chapter 32A

STREETS—SEMCO GAS FRANCHISE

Sec. 32A-1. Grant of gas franchise.
Sec. 32A-2. Term of franchise.
Sec. 32A-3. Gas service and extension of system.
Sec. 32A-4. Use of streets and other public places.
Sec. 32A-5. Street vacation.
Sec. 32A-6. Relocation.
Sec. 32A-7. Public emergency.
Sec. 32A-8. Identification of system.
Sec. 32A-9. Indemnity.
Sec. 32A-10. Standards and conditions of service; rules, regulations, and rates.
Sec. 32A-11. City jurisdiction.
Sec. 32A-12. Successors and assigns.
Sec. 32A-13. Franchise not exclusive.
Sec. 32A-14. Effective date.

Sec. 32A-1. Grant of gas franchise. [Ord. No. 1582, 5-16-2012]

Subject to all the terms and conditions of Sections 12.1 and 12.2 of the Charter of the City of Holland, except as otherwise provided herein, the City of Holland grants to the SEMCO Energy Gas Company, a division of SEMCO Energy, Inc., a corporation organized under the laws of the State of Michigan ("Grantee"), a franchise to transact local business in the City of Holland for the purposes of conveying gas into and through and supplying and selling gas in the City of Holland and all other incidental matters including a franchise to lay, maintain, operate, and use gas pipes, mains, conductors, service pipes, and other necessary equipment (hereinafter "gas distribution system") in the highways, streets, alleys, and other public places in the City of Holland, Ottawa and Allegan Counties, Michigan. Notwithstanding this grant, the grantee must comply with the permit requirements of Section 32A-4 and must comply with all provisions of the Code and rules and regulations of the City which regulate the use of public ways in the City of Holland.

Sec. 32A-2. Term of franchise. [Ord. No. 1582, 5-16-2012]

The term of the franchise granted by these Sections 32A-1 through 32A-14 is for 30 years after it takes effect, subject to revocation at the will of the City at any time during the thirty-year period upon 60 days' written notice by the City.

Sec. 32A-3. Gas service and extension of system. [Ord. No. 1582, 5-16-2012]

If the provisions and conditions of these Sections 32A-1 through 32A-14 are accepted by the grantee, then the grantee shall furnish gas to applicants residing in the City in accordance with applicable laws, rules and regulations; and provided further that the initial installation and any extensions shall be subject to the main extension provisions, the area expansion program provisions (if and where applicable), and other applicable provisions now or from time to time hereafter contained in the grantee's rules and regulations for gas service as filed

with the Michigan Public Service Commission or successor agency having similar jurisdiction.

Sec. 32A-4. Use of streets and other public places. [Ord. No. 1582, 5-16-2012]

Except in cases of emergency, notwithstanding any implied or explicit rights granted by this franchise, no road, street, alley, or highway shall be opened for the laying of trunk lines, lateral mains, or other gas pipes, mains, conduits, service pipes, or other equipment, except upon application to the City of Holland or other authority having jurisdiction in the premises, stating the nature of the proposed work and the route and issuance of all necessary permits to the grantee to do the work proposed. In all situations, the grantee shall minimize the disturbance to all infrastructures while working within the right-of-way. Prior to issuing a permit for work within the right-of-way, the City may direct the grantee to revise its application in order to minimize the disturbance to infrastructure within the right-of-way and minimize the need for future maintenance. Ongoing work being performed under the permit to grantee may be immediately halted by the City of Holland until such time as the grantee can demonstrate to the City that the work will be conducted in a manner that minimizes the disturbance to infrastructure within the right-of-way to the greatest extent possible. The grantee shall, within a reasonable time after making an opening or excavation, repair the same and leave it in as good condition as before the opening or excavation was made. For maintenance and inspections not requiring an opening or excavation the grantee shall not unnecessarily obstruct the passage of any of the highways, streets, alleys, or other public places within the City of Holland. For maintenance and inspections, the grantee may not occupy any right-of-way of the City until it has obtained all permits required for occupancy, except in cases of emergency. In cases of emergency, the grantee shall notify the City of the emergency, and the nature of the work performed, in writing as soon as reasonably practical. The grantee shall use due care in exercising the privileges herein contained.

Sec. 32A-5. Street vacation. [Ord. No. 1582, 5-16-2012]

If the City vacates or consents to the vacation of a street or alley within its jurisdiction and such vacation necessitates the removal and relocation of grantee's facilities in the vacated right-of-way, grantee agrees to consent to the vacation and to move its facilities, at its sole cost and expense, when asked to do so by City. Grantee shall relocate its facilities to such alternative route as the City, acting reasonably and in good faith, designates after first consulting with the grantee.

Sec. 32A-6. Relocation. [Ord. No. 1582, 5-16-2012]

If the City requests grantee to relocate its facilities because of street, utility work, or otherwise in the exercise of its governmental functions, grantee shall promptly relocate its facilities within the time specified by the City, at its sole expense to such alternate route as City, acting reasonably and in good faith, designates after first consulting with the grantee.

Sec. 32A-7. Public emergency. [Ord. No. 1582, 5-16-2012]

The City shall have the right to address emergencies in accordance with Act 53 of the Public Acts of 1974, as amended, MCLA § 460.701 et seq. Grantee shall be responsible for repair, at its sole expense, of any of its facilities damaged pursuant to any such action taken by the City that was reasonably necessary to respond to the emergency.

Sec. 32A-8. Identification of system. [Ord. No. 1582, 5-16-2012]

(a) MISS DIG. Grantee shall subscribe to and be a member of "MISS DIG," the association of underground utilities formed pursuant to Act 53 of the Public Acts of 1974, as amended from time to time, MCLA § 460.701 et seq., and shall conduct its business in conformance with the statutory provisions and regulations promulgated thereunder.

(b) Marking. Grantee shall mark both the above-ground and underground portions of its gas distribution system in accordance with Act 53 of the Public Acts of 1974, as amended from time to time, MCLA § 460.701 et seq., and applicable gas safety standards.

(c) Request for information. Nothing herein shall prohibit the City from requesting, and the grantee from providing, information on the location of its existing facilities in a designated area, including maps and as-built/record drawings depicting such locations, on terms that protect such confidential information from public disclosure. Upon request by the City pursuant to this subparagraph, the grantee shall promptly provide the requested information to the City and in no case shall the grantee take longer than one week to fulfill the request.

Sec. 32A-9. Indemnity. [Ord. No. 1582, 5-16-2012]

(a) Disclaimer of liability. The City shall not at any time be liable for injury or damage occurring to any person or property from any cause whatsoever arising out of the construction, maintenance, repair, use, operation, condition or dismantling of grantee's gas distribution system and due to the act or omission of any person or entity other than injury or damage solely caused by the City and its employees.

(b) Indemnification. Grantee shall, at its sole cost and expense, defend, indemnify and hold harmless the City, all associated, affiliated allied and subsidiary entities of the City now existing or hereinafter created, and their respective officers, boards, commissions, employees, and attorneys (hereinafter referred to as "indemnities"), from and against any and all liability, obligation, damages, penalties, claims, liens, limitations, reasonable fees and expenses of attorneys, expert witnesses and consultants, which may be imposed upon, incurred by or be asserted against the indemnities by reason of any negligent act or omission of grantee, its personnel, employees, agents, contractor or subcontractors, resulting in personal injury, bodily injury, sickness, disease or death to any person or damage to, loss of or destruction of property which may arise out of or be connected with the construction, installation, operation, maintenance or condition of the gas distribution system or grantee's failure to comply with any federal, state or local statute, ordinance or regulation.

(c) Assumption of risk. Grantee undertakes and assumes for its officers, agents, contractors and subcontractors and employees, all risk of dangerous conditions, if any, on or about any City-owned or controlled property, including public ways, and grantee hereby agrees to indemnify and hold harmless the indemnities for personal injury or property damage to any person arising out of the installation, operation, maintenance or condition of the gas distribution system or grantee's failure to comply with any federal, state or local statute, ordinance or regulation. This subsection shall not apply to personal injury or property damages arising from acts or omissions solely caused by the City or its employees.

(d) Notice, cooperation, and expenses.

(1) The City shall give grantee prompt notice of the making of any claim or the commencement of any action, suit or other proceeding covered by the provisions of this Section 32A-9.

(2) Nothing herein shall be deemed to prevent the City from cooperating with grantee and participating in the defense of any litigation by the City's own counsel.

(3) Grantee shall pay all reasonably necessary expenses incurred by the City defending itself with regard to any such actions, suits or proceedings. These expenses shall include all reasonably necessary out-of-pocket expenses, such as attorney fees, and the reasonably necessary actual expenses of the City's agents, employees or expert witnesses, and reasonably necessary disbursements and liability assumed by the City in connection with such suits, actions or proceedings.

(e) Survival of terms. The terms and conditions of Section 32A-9 shall survive termination or assignment of this franchise.

Sec. 32A-10. Standards and conditions of service; rules, regulations, and rates. [Ord. No. 1582, 5-16-2012]

Grantee shall charge for gas furnished the rates, charges and special taxes as approved from time to time by the Michigan Public Service Commission, or its successors having authority and jurisdiction to fix and regulate gas rates and charges, or as otherwise permitted or required by applicable law or tariff, for the term of this franchise. Such rates shall be subject to Commission review and change at any time upon petition therefore being made by either said City, acting by its City Council, or by said grantee. Grantee shall, as to all conditions and elements of service, be and remain subject to the reasonable rules and regulations of the Michigan Public Service Commission or its successors, applicable to gas service in said City and shall provide service in accordance with the terms and conditions set forth in its applicable tariff as approved from time to time by the Michigan Public Service Commission or its successors.

Sec. 32A-11. City jurisdiction. [Ord. No. 1582, 5-16-2012]

Except as otherwise provided in Section 32A-10, grantee shall be and remain subject to all ordinances, rules and regulations of the City now in effect or which may be subsequently

adopted for the regulation of land uses or for the protection of the health, safety and welfare of residents of the City.

Sec. 32A-12. Successors and assigns. [Ord. No. 1582, 5-16-2012]

(a) Grantee shall not assign this franchise to any other person, firm or corporation without the prior written approval of the City Council except in those cases where the Michigan Public Service Commission has granted any required approval of the acquisition, transfer of control, merger or encumbrance transaction underlying the assignment of this franchise, and the grantee has provided notice to the City of its request for approval and the City is given an opportunity to participate in the proceeding before the Michigan Public Service Commission. The City shall not unreasonably withhold its consent to an assignment if the assignee is financially able to carry out the grantee's obligations under this franchise. The assignment of this franchise to a subsidiary, division, or affiliated corporation of grantee or its parent corporation shall not be considered an assignment requiring the consent of the City Council.

(b) Subject to the provisions of the City Charter and Sections 32A-1 through 32A-14, the words "SEMCO Energy Gas Company" and "grantee", are intended and shall be held and construed to mean and include both SEMCO Energy Gas Company and its successors and assigns, as approved in writing by the City, whether so expressed or not.

Sec. 32A-13. Franchise not exclusive. [Ord. No. 1582, 5-16-2012]

The rights, power and authority granted by these Sections 32A-1 through 32A-14 are not exclusive. The City may grant other franchises for the same purpose or purposes after the date hereof. Nothing in this franchise shall transfer or delegate any authority which the City may have under its Charter or state law relating to the subject matter of this franchise.

Sec. 32A-14. Effective date. [Ord. No. 1582, 5-16-2012]

This ordinance [from which this chapter is derived] shall take effect upon the day after the publication thereof; provided, however, it shall cease and be of no effect after 30 days from its adoption unless within said period the grantee shall accept the same, in writing, filed with the City Clerk. Upon acceptance and publication, the ordinance shall constitute a contract between the City and said grantee.

Chapter 33

SUBDIVISIONS

Sec. 33-1. Purpose of chapter.
Sec. 33-2. Definitions.
Sec. 33-3. Sketch plat.
Sec. 33-4. Preliminary plat.
Sec. 33-5. Final plat.
Sec. 33-6. Lot area requirements.
Sec. 33-7. Required improvements.
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Sec. 33-11. Easements.
Sec. 33-12. Blocks.
Sec. 33-13. Lots generally.
Sec. 33-14. Variances.
Sec. 33-15. Administration and interpretation of chapter.

Sec. 33-1. Purpose of chapter. [Ord. No. 448, § 9-2.1]

The purpose of this chapter is to establish procedures and minimum standards for the orderly and reasonable development and subdivision of land designed to protect and promote public health, safety, convenience and general welfare, to adequately provide for and control traffic movement and the installation of needed utilities, thereby encouraging the most appropriate use of land in the City.

Sec. 33-2. Definitions. [Ord. No. 448, § 9-2.2; amended 1-17-2018 by Ord. No. 1721]

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

COMPLETE UTILITY SUBDIVISIONS — A subdivision located in the primary service area in which arrangements have been made for both public water service and sewage disposal by a public utility system and for the improvements required by this chapter.

FINAL PLAT — The final map, drawing or chart which the applicant submits pursuant to the Land Division Act, MCLA § 560.101 et seq., as amended, for the approval of the Council of the City.

LOCAL STREET — A street intended primarily to serve adjacent neighborhood properties.

MAJOR STREET — A street designated as such in the Major Street Plan for Holland, Michigan, contained within the proposed Master Plan dated April, 1953, or by subsequent action of the Planning Commission, which is intended to serve a relatively large volume of traffic not originating or terminating in the particular neighborhood.

PARTIAL UTILITY SUBDIVISION — A subdivision in which arrangements have been made for either public water service or sewage disposal by a public utility system, but not both, and for the other improvements required by this chapter.

POTENTIAL UTILITY SUBDIVISION — A subdivision in which neither public water nor sewage disposal by a public utility system can be obtained at the time of platting, but where the other improvements required by this chapter are provided.

PRIVATE SERVICE SUBDIVISION — A subdivision located in an area in which neither public water nor sewage disposal by a public utility system is furnished or contemplated.

SUBDIVIDE — "Subdivide" shall be given the same meaning as appears in MCLA § 560.102.

Sec. 33-3. Sketch plat. [Ord. No. 448, § 9-2.3]

It is recommended that a sketch plat of each subdivision be submitted for preliminary discussion before the preliminary or final plat is prepared. The purpose of the sketch plat is to enable the Planning Commission and the applicant to discuss the principles and standards involved before the applicant has incurred major expenses. The Planning Commission shall consider a sketch plat and, if it is satisfactory, shall give its tentative approval to such plat. Such approval is subject to change but is intended to furnish a reasonable basis for the applicant to proceed. The sketch plat and accompanying data shall provide the following information:

(a) A rough topographical sketch showing approximate ground elevations, watercourses, wooded areas, improvements, boundaries, public ways and utilities.

(b) A simple sketch of the proposed layout of streets, lots and public areas.

(c) Proposed uses and protective covenants, if any.

(d) Relationship of the tract to existing streets and surrounding areas.

(e) Such additional pertinent data as the Planning Commission may request.

Sec. 33-4. Preliminary plat. [Ord. No. 448, § 9-2.4; Ord. No. 1519, 11-5-2008]

The applicant shall submit the following preliminary plat information to the Department of Community and Neighborhood Services for review and consideration by the Planning Commission:

(a) A completed preliminary plat application form.

(b) Application fee.

(c) The number of paper copies of the preliminary plat as indicated on the application form, and one digital copy in a PDF file format that accurately and completely depicts the scope of the project. The preliminary plat shall be designed to meet the general requirements for all subdivisions listed in Sections 33-8 to 33-13, and shall contain or be accompanied by the following information:

(1) Existing topographical features of the tract, including ground elevations, watercourses, wooded areas, isolated trees of more than one foot in diameter, improvements, boundaries, public ways and utilities, and any other special or significant terrain features.

(2) The proposed layout, dimensions and form of dedication of streets, lots, utility easements and public places.

(3) The proposed use of individual lots and protective covenants, if any.

(4) Proposed utility layouts; if private water sources or sewage disposal is proposed, percolation tests shall be made and the results submitted with the preliminary plat.

(5) Other subsurface or surface condition information if requested by the City Engineer.

(6) Such additional pertinent data as the Planning Commission may request.

(d) The Planning Commission shall conduct a public hearing on the preliminary plat before taking action. Notice of the public hearing shall comply with Section 39-4.1 of the City Code.

Sec. 33-5. Final plat. [Ord. No. 448, § 9-2.5; Ord. No. 955, 7-6-1988; Ord. No. 1519, 11-5-2008]

(a) The applicant shall submit the following final plat information to the Department of Community and Neighborhood Services for review and consideration by the Planning Commission:

(1) A completed final plat application form.

(2) Application fee in addition to any county and state filing fees.

(3) The number of paper copies of the final plat as indicated on the application form, one digital copy in a PDF file format that accurately and completely depicts the scope of the project, and one Mylar copy. The final plat shall contain or be accompanied by the following information:

a. All information required by Act No. 288 of the Public Acts of 1967, as amended, MCLA § 560.101 et seq.

b. Satisfactory written evidence of arrangements for the installation of services and improvements as required by Section 33-7.

c. An abstract of title, certified to date, or a title insurance policy with respect to the area within the proposed plat.

d. The data specified in Sections 33-3 and 33-4, unless previously filed with the Department of Community and Neighborhood Services.

e. The proprietor's name and address shall be stated on the plat.

(b) The City Planning Commission shall recommend approval, approval with conditions, or disapproval of a plat within 63 days after the final plat is submitted to the Planning Commission. The Planning Commission shall conduct a public hearing on the proposed plat before taking action. Notice of the public hearing shall comply with Section 39-4.1 of the City Code.

(c) If the applicable standards under the Land Division Act, 1967 PA 288, MCLA § 560.101 to 560.293, and Chapters 33 and 39 are met, the Planning Commission shall recommend approval of the final plat. If the Planning Commission fails to act within the required period, the plat shall be considered to have been recommended for approval, and a certificate to that effect shall be issued by the Planning Commission upon request of the proprietor, except that the proprietor may waive this requirement and consent to an extension of the sixty-three-day period. The grounds for any recommendation of disapproval of a plat shall be stated upon the records of the Planning Commission.

(d) City Council shall proceed to consider the final plat within 30 days after the final plat approval by the Planning Commission. City Council shall either give approval to the final plat, or authorize the City Clerk to certify the Council's approval on the plat copies, or reject the final plat, stating in writing its reasons for such rejection and its comments with respect to requirements for final approval.

Sec. 33-6. Lot area requirements. [Ord. No. 448, § 9-2.6; Ord. No. 1221, 8-19-1998]

For the purposes of this chapter, subdivisions shall be classified as complete utility, partial utility or private service subdivisions. For reasons of health and sanitation, the minimum required area of each lot shall vary according to the type of subdivision, the minimum requirements increasing as the availability of the various public services decreases.

(a) Lots located in a complete utility subdivision situated within a primary service area shall have a minimum frontage at building line of 60 feet and a minimum lot area of 7,200 square feet.

(b) Lots located in a partial utility subdivision situated within a primary service area shall have a minimum frontage at building line of 75 feet and a minimum lot area of 10,000 square feet.

(c) Lots located in a potential utility subdivision situated within a primary service area shall have a minimum frontage at building line of 90 feet and a minimum lot area of 13,500 square feet.

(d) Lots located in a potential utility subdivision situated in a secondary service area shall have a minimum frontage at building line of 110 feet and a minimum lot area of 18,000 square feet.

(e) Lots located within a private service division situated within a private service area shall have a minimum frontage at building line of 165 feet and a minimum lot area of 35,000 square feet.

(f) For lots located within a complete utility subdivision within the WIND zone district, required lot frontages and lot areas shall be established at the time of preliminary plat approval.

Sec. 33-7. Required improvements. [Ord. No. 448, § 9-2.7; Ord. No. 484; Ord. No. 886; Ord. No. 1184, 10-16-1996; Ord. No. 1221, 8-19-1998]

The public improvements required for a particular class of subdivision shall be assured by the subdivider prior to final approval of the plat, either by actual installation of the same prior to such approval or by the posting of a cash deposit, certified check or surety bond, conditioned upon making the required improvements within three years, in an amount estimated by the City Engineer to be sufficient to complete such improvements.

(a) Complete utility subdivisions. The following improvements, constructed in accordance with City specifications, are required in a complete utility subdivision:

(1) Thirty-foot wide graded streets, with concrete curbs and gutters, surfaced with asphalt or by a surfacing determined to be equally satisfactory by the City Engineer.

(2) Street signs shall be erected at each street intersection.

(3) A public water supply shall be made available to each lot.

(4) A public sanitary sewer shall be made available to each lot.

(5) Adequate provision shall be made for culverts, fire hydrants, bridges, drains, catch basins and storm sewers.

(6) Concrete sidewalks six feet in width shall be placed on both sides of the street. For commercial and industrial subdivisions, sidewalks shall be required along frontages of public and private streets in association with commercial and industrial development where the Planning Commission determines such sidewalks are appropriate and where deemed necessary to assure one or more of the following:

a. Public safety;

b. Continuity of existing or planned future pedestrian and/or bicycle circulation;

c. Consistency with sidewalk programs or policies adopted by the City Council. Sidewalks shall be six feet wide concrete constructed to City specification unless an alternative is specifically reviewed and approved by the Planning Commission and City Engineer. Waiver of sidewalks during the course of site plan review does not prevent the City from requiring said sidewalks at some future date and assessing property owners for the cost thereof, as appropriate.

(7) Topsoil shall not be removed from the site or used as spoil but shall be redistributed so as to provide at least six inches of cover on the lots and at least four inches of cover between sidewalks and curbs, and shall be stabilized by seeding or planting.

(b) Partial utility subdivisions. The requirements of Subsection (a) of this section shall apply to a partial utility subdivision; except, that, in the alternative:

(1) If a public water system is not available, individual wells may be used, provided that all other requirements are met; or

(2) If a public sanitary sewer system is not available, individual septic tanks may be used, provided that all other requirements are met.

(c) Potential utility subdivisions. The following improvements, constructed in accordance with City specifications, are required in a potential utility subdivision:

(1) Thirty-foot wide graded streets, with concrete curbs and gutters, surfaced with asphalt or by a surfacing determined to be equally satisfactory by the City Engineer.

(2) Street signs shall be erected at each street intersection.

(3) Adequate provision shall be made for culverts, bridges, drains and catch basins.

(4) Asphalt or concrete sidewalks six feet in width shall be placed on one side of each street; except, that if the average width of all lots exceeds 150 feet and if the average lot area exceeds 30,000 square feet, and if the City Council determines that a sidewalk is not needed to provide access to a school or to continue an existing walk, no sidewalks will be required.

(5) Topsoil shall not be removed from the site or used as spoil but shall be redistributed so as to provide at least six inches of cover on the lots and at least four inches of cover between sidewalks and curbs, and shall be stabilized by seeding or planting.

(d) Private service subdivisions. Streets not less than 24 feet in width, with concrete curbs and gutters, or in lieu thereof between intersections, asphalt valley gutters, graded, drained and surfaced in accordance with City specifications, are required in a private service subdivision.

(e) Exceptions. In the event that a proposed subdivision is bordered by any existing street shown on the latest street map for the City on file with the local government division of the State Highway Department pursuant to Act No. 51 of the Public Acts of 1951, as amended,[1] then the curbs, gutters, sidewalks and street paving otherwise required herein on or along such existing streets shall not be required by this chapter.

(f) Requirements for public improvements, including but not limited to such elements as streets and sidewalks, within a complete utility subdivision within the WIND zone district shall be established at the time of preliminary plat and development plan approval.

Sec. 33-8. General requirements for all subdivisions. [Ord. No. 448, § 9-2.8; Ord. No. 1221, 8-19-1998]

(a) Compliance with Master Plan, Major Street Plan and Zoning Ordinance. Subdivisions shall be designed whenever possible in accordance with the provisions of the proposed

1. Editor's Note: See MCLA § 247.651 et seq.

Master Plan of the City, and shall conform to the major street plan and the provisions of Chapter 39 of this Code.

(b) Withholding approval on unsuitable lots. If the City Council, after proper investigation, determines one or more lots to be unsuitable for the intended use because of topographical or other physical reasons, it shall withhold approval of such lots.

(c) Commercial and industrial subdivisions. The City Council shall fix service and improvement requirements for commercial or industrial subdivisions with reference to the proposed use and density of the subdivided area and the type of business or industrial activity to be carried on in such area, applying the complete utility subdivision requirements wherever applicable.

(d) Public purpose areas. Whenever the Planning Commission determines that certain defined areas located in whole or in part within a proposed subdivision are reasonably necessary for park, recreation, school, public utility or other public purposes, it shall notify the applicant and public agency involved before approval of the plat is granted. Thereupon, unless the applicant is willing to dedicate such area without cost, the public agency involved shall within 30 days advise the applicant if it desires to acquire the area in question. Any improvements placed upon such lands by applicant following receipt of such notice of intent to acquire such premises by any such public agency shall not increase the compensation to applicant for such public acquisition, if proceedings to acquire such area are commenced by such public agency within six months of the date of platting.

(e) Subdivisions within the WIND zone district shall be designed in accordance with the Windmill Island master plan and the applicable provisions of Chapter 39 of this Code.

Sec. 33-9. Street requirements generally. [Ord. No. 448, § 9-2.9; Ord. No. 1221, 8-19-1998]

The arrangement, character, extent, width, grade and location of all streets shall conform to the City major street plan, shall be considered in relation to existing and planned streets, to topographical conditions, to public convenience and safety, in relation to the proposed uses of the land to be served by such street, and shall conform to the following criteria:

(a) Layout. Local streets shall be laid out so that their use by through traffic will be discouraged.

(b) Subdivisions abutting or containing major street. Where a subdivision abuts or contains an existing or proposed major street, the City Council may require marginal access streets, reverse frontage with screen planting contained in a nonaccess reservation along the rear property line, deep lots with rear service alleys or such other treatment as may be necessary for adequate protection to residential properties and to afford separation of through and local traffic.

(c) Subdivisions bordering on or containing railroad or limited access highway right-of-way. Where a subdivision borders on or contains a railroad right-of-way or limited access highway right-of-way, the City Council may require a street approximately parallel to and on each side of such right-of-way at a distance suitable for the appropriate use of the intervening land, as for park purposes in residential districts, or

for commercial or industrial purposes in appropriate districts. Such distances shall also be determined with due regard for the requirements of approach grades and future grade separations.

(d) Reserve strips generally. Reserve strips controlling access to streets shall be prohibited except where their control is definitely placed in the City under conditions approved by the City Council.

(e) Visibility requirements for certain streets. When connecting street lines deflect from each other at any one point by more than 10°, they shall be connected by a curve with a radius adequate to insure a sight distance of not less than 300 feet for local streets, and of such greater radii as the City Council shall determine for major streets.

(f) Intersections—generally. Streets shall be laid out so as to intersect as nearly as possible at right angles and no street shall intersect any other street at less than 60°.

(g) Rounded property corners. Rounded property corners at street intersections may be required by the City Engineer.

(h) Half-width streets. Half-width streets shall be prohibited except where essential to the reasonable development of the subdivision in conformity with the other requirements of these regulations; and where the City Council finds it will be practicable to require the dedication of the other half when the adjoining property is subdivided. Wherever a half-width street is adjacent to a tract to be subdivided the other half of the street shall be platted within such tract.

(i) Dead-end streets. Dead-end streets, designed to be so permanently, shall not generally be longer than 800 feet and shall be provided at the closed end with a turnaround having an outside roadway diameter of at least 86 feet, and a street property line diameter of at least 110 feet.

(j) Street names. No street names shall be used which will duplicate or be confused with the names of existing streets. New streets which are extensions of or obviously in alignment with existing streets shall bear the name of the existing streets. Street names shall be subject to the approval of the City Council.

(k) Grades. No street grade shall be less than 1/2 of 1%, nor greater than 7%, unless the City Council finds that the topography of the land to be subdivided is such as to make it impossible to otherwise develop such land.

(l) Right-of-way widths. Standard right-of-way widths shall be 66 feet for local streets and 80 feet for major streets unless otherwise indicated on the major street plan, but the City Council may vary either requirement upon a determination that the potential traffic volume indicates that either a greater or lesser width would be appropriate.

(m) Requirements within WIND. Notwithstanding criteria in Subsections (a) through (1) above, the unique character and conditions of development within the WIND may necessitate deviations from the general requirements herein. Deviation from these criteria, consistent with the Windmill Island master plan, shall be reviewed and approved at the time of preliminary plat and development plan review.

Sec. 33-10. Alleys. [Ord. No. 448, § 9-2.10; Ord. No. 1221, 8-19-1998]

The City Council shall require an alley in commercial and industrial districts unless definite provision is made and assurances are given for service access, including off-street parking, loading and unloading space consistent with and adequate for the proposed uses.

Alleys shall not be permitted in residential districts without the special consent of the City Council.

The minimum width of an alley shall be 20 feet.

Dead-end alleys shall be avoided whenever possible. If such an alley is unavoidable, provision shall be made for adequate turn-around facilities at the dead-end.

Requirements of this section shall not apply to development within the WIND zone district.

Sec. 33-11. Easements. [Ord. No. 448, § 9-2.11]

Easements across lots or centered on rear or side lot lines shall be provided for utilities where necessary and shall be of such width as may be reasonably necessary for the utilities to be benefitted, but in no event shall any such easement be of less width than that required by state law.

Where a subdivision is traversed by a watercourse, drainage way, channel or stream there shall be provided a stormwater easement or drainage right-of-way conforming substantially with the lines of such watercourse, and such additional width as may be necessary.

Sec. 33-12. Blocks. [Ord. No. 448, § 9-2.12; Ord. No. 1221, 8-19-1998]

(a) Generally. The lengths, widths and shapes of blocks shall be determined with due regard to:

(1) Provision for adequate building sites suitable to the special needs of the type of use contemplated.

(2) Zoning requirements as to lot sizes and dimensions.

(3) Needs for convenient access, circulation, control and safety of street traffic.

(4) Limitations and opportunities of topography.

(b) Length. The long dimension of a block shall generally not exceed 1,000 feet.

(c) Pedestrian walkways. Pedestrian walkways, not less than 15 feet wide, may be required where deemed essential to provide circulation or access to schools, playgrounds, shopping centers, transportation and other community facilities. Within the WIND zone district, the dimension of such walkways may vary.

Sec. 33-13. Lots generally. [Ord. No. 448, § 9-2.13]

(a) Generally. The lot size, width, depth, shape and orientation, and the minimum building setback lines, shall be appropriate for the location of the subdivision and for the type of development and use contemplated.

(b) Area and setback requirements. Lot area and setback requirements shall conform to the requirements of the zoning ordinance.

(c) Commercial and industrial lots. The depth and width of properties reserved or laid out for commercial and industrial purposes shall be adequate to provide for the off-street service and parking facilities required by the type of use and development contemplated.

(d) Corner lots for residential use. Corner lots for residential use shall have extra width to permit appropriate building setback from and orientation to both streets.

(e) Access to public streets. The subdividing of the land shall be such as to provide, by means of a public street, each lot with satisfactory access to an existing public street.

(f) Double frontage and reverse frontage lots. Double frontage and reverse frontage lots shall be avoided except where essential to provide separation of residential development from major traffic arteries or to overcome specific disadvantages of topography and orientation. A planting screen easement across which there shall be no right of vehicular access may be required along the line of lots abutting such a major traffic artery or other disadvantageous use.

(g) Side lot lines. Side lot lines shall be substantially at right angles to, or radial to, street lines.

Sec. 33-14. Variances. [Ord. No. 448, § 9-2.14]

(a) Petition. A petition for a variance may be submitted in writing by the applicant at the time of filing the proposed plat with the City Clerk, which petition shall state fully the grounds and reasons for requesting each such variance.

(b) Granting generally. If the subdivider can clearly demonstrate that literal enforcement of any provision of this chapter not specifically required by Act No. 172 of the Public Acts of 1929, as amended,[2] is impractical or will impose undue hardship in the use of his or her land because of peculiar conditions pertaining to his or her land, the City Council may permit such variance as it believes to be reasonable and within the general purposes and policy of this chapter.

(c) Matters for consideration. In making the findings required below, the City Council shall consider the location and condition of the proposed subdivision, the nature of the proposed variance as compared with the existing use of land in the vicinity, the number of persons to reside or work in the proposed subdivision and the probable effect of the proposed subdivision and variance on traffic conditions in the vicinity.

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2. Editor's Note: Act No. 172 was repealed by Act No. 288 of the Public Acts of 1967. See now MCLA § 560.101 et seq., the Land Division Act.

(d) Findings required. No variance shall be granted unless the City Council finds that:

(1) There are special circumstances or conditions affecting such property such that the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of his or her land.

(2) The variance is necessary for the preservation and enjoyment of a substantial property right of the applicant.

(3) The granting of the variance will not be detrimental to public health, safety or general welfare or be injurious to property in the area which such property is situated.

(e) Conditions may be imposed. In permitting any such variance, the City Council may impose such conditions as will secure substantially the objectives of the standard or requirement so varied.

Sec. 33-15. Administration and interpretation of chapter. [Ord. No. 448, § 9-2.15]

This chapter shall be administered by the City Council assisted by the research, reports and recommendations of the Planning Commission and affected departments of the City, supplemented by such consulting service as is deemed desirable. The provisions of this chapter shall be interpreted to be minimum requirements for the protection of public health, safety and welfare.

Chapter 33.1

TAXATION

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ARTICLE IIIA

Tax Exemption for Elderly Dwelling Projects Established After January 1, 2013

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Tax Exemption for Elderly Dwelling Projects Established After January 1, 2018

Sec. 33.1-71. Class of project to which exemption applies.

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ARTICLE I

Elderly Housing Tax Exemption

Sec. 33.1-1. Established. [Ord. No. 712; Ord. No. 764]

There is hereby established a service charge in lieu of taxes against projects for elderly persons of low and moderate income, financed or assisted with a mortgage loan insured by the United States Government through the Department of Housing and Urban Development (HUD) or assisted pursuant to the provisions of the state Housing Development Act of 1966, being Act No. 346 of the Public Acts of 1966, as amended (MCLA § 125.1401 et seq.).

Sec. 33.1-2. Definitions. [Ord. No. 712; Ord. No. 764]

For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

ACT — The state Housing Development Authority Act, being Act No. 346 of the Public Acts of 1966 of the State of Michigan, as amended.

AUTHORITY — The State Housing Development Authority.

CONTRACT RENTS — The rent payable to the owner of a qualified housing project under the owner's contract for the same including the portion of the rent payable by the tenant as well as that payable under any governmental subsidy.

ELDERLY — Those persons 62 years of age or older or who otherwise qualify pursuant to the rules and regulations or practices of the HUD or the Authority for residency in an elderly housing project.

ELDERLY HOUSING PROJECT — A specific parcel of property, or divisible portion thereof, improved for rental to a low or moderate income individual which qualifies as an elderly housing project under the rules and regulations or standard practices of HUD or the Authority to the extent it is occupied by the elderly or held for rental exclusively to the elderly. The unit occupied by a development manager or caretaker shall be excluded from the tax abatement granted herein unless the manager or caretaker would otherwise qualify as a low or moderate income individual under the rules and regulations or standard practices of HUD or the Authority.

MORTGAGE LOAN — A loan made by the Authority or insured by HUD to the sponsor for the construction and permanent financing of an elderly housing project.

SPONSOR — Persons or entities which have applied to the Authority or HUD for a mortgage loan to finance an elderly housing project.

UTILITY — Fuel, public water, public sanitary sewer service and electrical service.

Sec. 33.1-3. Class of housing projects. [Ord. No. 712]

It is hereby determined that the class of housing projects to which the tax exemption shall apply and for which a service charge shall be paid in lieu of such taxes shall be senior citizens' housing for elderly persons as defined in Section 33.1-2 above.

Sec. 33.1-4. Payment in lieu of taxes. [Ord. No. 712; Ord. No. 764]

That portion of an elderly housing project exclusively and especially designated for and occupied by elderly persons of low and moderate income developed and constructed upon a parcel of land within the City sufficient for the operation of such project (but no larger) shall be exempt from all property taxation beginning in the year following commencement of construction and continuing as long as the mortgaged loan insured by HUD or assisted or financed by the Authority remains outstanding and unpaid and as long as HUD or the Authority has an interest in such property, and shall be subject to a service charge in lieu of such property taxes in an amount equal to 4% of contract rents of the preceding calendar year, exclusive of utility charges paid by tenants or the project.

Notwithstanding the foregoing, in no event shall the service charge, at any time, be less than the property taxes upon the subject property for the tax year prior to the date when construction was commenced.

Sec. 33.1-5. Collection procedures.

The service charge in lieu of taxes as determined hereunder shall be payable in the same manner as general property taxes are payable in the City; except, that the annual payment shall be paid on or before July 1 of each year. The entire tax collection procedure provided by the General Property Tax Act[1] shall be effective with respect to such payment including, but not by way of limitation, the provisions providing for interest and penalties on late payments, return of delinquent taxes and the sale of lands for delinquent taxes.

Sec. 33.1-6. Contractual effect of article.

Notwithstanding the provisions of Section 15(a)(5) of the Act[2] to the contrary, the City shall adopt a resolution between the City and a sponsor of an elderly housing project establishing a contract to provide tax exemption and accept payments in lieu thereof naming HUD or the Authority as a third-party beneficiary to such contract.

Sec. 33.1-7. through Sec. 33.1-20. (Reserved)

ARTICLE II
Tax Exemption for Elderly Dwelling Projects Established After December 1, 1991

Sec. 33.1-21. Preamble. [Ord. No. 1033, 12-4-1991]

It is acknowledged that it is a proper public purpose of the State of Michigan and its political subdivisions to provide housing for its elderly persons of low and moderate income and to encourage the development of such housing by providing for a service charge in lieu of property taxes in accordance with the State Housing Development Authority Act of 1966 (1966 PA 346, as amended, MCLA § 125.1401 et seq.) ("Act"). The City is authorized by said Act to establish or charge a service charge to be paid in lieu of taxes by any or all classes of housing exempt from taxation under the Act at any amount it chooses not to exceed the taxes that would be paid but for the Act.

It is further acknowledged that such housing for elderly persons of low or moderate income is a public necessity, and as the City will be benefited and improved by such housing, the encouragement of the same by providing certain real estate tax exemption therefore is a valid public purpose; further, that the continuation of the provisions of this article for tax exemption and the service charge in lieu of taxes during the period contemplated in this article are essential to the determination of economic feasibility of housing developments which are constructed and financed in reliance on such tax exemption.

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1. **Editor's Note: See MCLA § 211.1 et seq.**
2. **Editor's Note: See MCLA § 125.1415a(5).**

Sec. 33.1-22. Definitions. [Ord. No. 1033, 12-4-1991; Ord. No. 1176, 7-17-1996]

For purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

ACT — The State Housing Development Authority Act, being Public Act 346 of 1966, of the State of Michigan, as amended.

AUTHORITY — The Michigan State Housing Development Authority.

CONTRACT RENTS — The rent payable to the owner of a qualified housing project under the owner's contract for the same including the portion of the rent payable by the tenant as well as that payable under any governmental subsidy.

ELDERLY — Those persons 62 years of age or older or who otherwise qualify pursuant to the rules and regulations or practices of the HUD or the Authority for residency in an elderly housing project.

ELDERLY HOUSING PROJECT — A specific parcel of property, or divisible portion thereof, improved for rental to a low or moderate income individual which qualifies as an elderly housing project under the rules and regulations or standard practices of HUD or the Authority to the extent it is occupied by the elderly or held for rental exclusively to the elderly.

HANDICAPPED — A person who has a handicap or disability, as the term is defined pursuant to the Michigan Handicappers' Civil Rights Act (Act 220 of the Public Acts of 1976)[3] as existing or hereafter amended, or such federal acts as may define such term, as existing or hereafter amended, including but not limited to Section 504 of the Rehabilitation Act of 1972, the Federal Fair Housing Act, or the American Disabilities Act.

LOW-INCOME INDIVIDUAL — An elderly person whose household income does not exceed 80% of area median gross income for Ottawa County, Michigan.*

MODERATE-INCOME INDIVIDUAL — An elderly person whose household income does not exceed 95% of median income for Ottawa County, Michigan.*

MORTGAGE LOAN — A loan made by the Authority or insured by HUD to the sponsor for the construction and permanent financing of an elderly housing project.

UTILITIES — Fuel, public water, public sanitary sewer service and/or electrical service.

* Note—Pursuant to Ord. No. 1176, adopted July 17, 1996, household income and area median gross income shall be determined in a manner consistent with the determinations of household income and area median gross income under Section 8 of the U.S. Housing Act of 1937, as amended (the "program"), and if the program is terminated, under the program regulations as in effect immediately before termination.

3. Editor's Note: See MCLA § 37.1101 et seq., the Persons with Disabilities Civil Rights Act.

Sec. 33.1-23. Class of project established after December 1, 1991. [Ord. No. 1033, 12-4-1991]

It is determined that the class of housing projects to which the exemption set forth in Section 33.1-24 shall apply, and for which a service charge shall be paid in lieu of taxes, shall be elderly housing projects, which are constructed and established pursuant to the Act, after December 1, 1991. Article I of Chapter 33.1 shall apply to all elderly housing projects constructed prior to December 1, 1991.

Sec. 33.1-24. Payment in lieu of taxes. [Ord. No. 1033, 12-4-1991]

That portion of an elderly housing project exclusively and especially designated for and occupied by elderly or handicapped persons of low and moderate income developed and constructed upon a parcel of land within the City sufficient for the operation of such project (but no larger) shall be exempt from all property taxation beginning in the year following commencement of construction and continuing as long as the mortgage loan insured by HUD or assisted or financed by the Authority remains outstanding and unpaid and as long as HUD or the Authority has any interest in such property. Notwithstanding the foregoing, an Elderly Housing Project, including units occupied by the handicapped, shall be subject to a service charge in lieu of property taxes in the amounts hereinafter set forth which shall be applied against contract rents of the preceding calendar year, exclusive of utility charges paid by tenants or by the project;

Years 1—8:	2.0%
Years 9—13:	3.0%
Years 14 — thereafter:	4.5%

Notwithstanding the foregoing, in no event shall the service charge, at any time, be less than the property taxes upon the land only without improvements for the tax year prior to the date when construction was commenced.

Sec. 33.1-25. Collection procedures. [Ord. No. 1033, 12-4-1991]

The service charge in lieu of taxes as determined hereunder shall be payable in the same manner as general property taxes are payable in the City; except, that the annual payment shall be paid on or before July 1 of each year. The entire tax collection procedure provided by the General Property Tax Act shall be effective with respect to such payment including, but not by way of limitation, the provisions providing for interest and penalties on late payments, return of delinquent taxes and the sale of lands for delinquent taxes.

Sec. 33.1-26. Contractual effect of article. [Ord. No. 1033, 12-4-1991]

Notwithstanding the provisions of Section 15(a)(5) of the Act[4] to the contrary, the City shall adopt a resolution between the City and a sponsor of an elderly housing project establishing a

4. Editor's Note: See MCLA § 125.1415a(5).

contract to provide tax exemption and accept payments in lieu thereof naming HUD or the Authority as a third party beneficiary to such contract.

Sec. 33.1-27. Severability. [Ord. No. 1033, 12-4-1991]

The various sections and provisions of this article shall be deemed to be severable, and should any section or provision of this article be declared by any court of competent jurisdiction to be unconstitutional or invalid, the same shall not affect the validity of this article as a whole or any section or provision hereof other than the section or provision so declared to be unconstitutional or invalid.

Sec. 33.1-28. Effective date. [Ord. No. 1033, 12-4-1991]

This article shall become effective immediately upon its adoption and publication by the City Council. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Sec. 33.1-29. through Sec. 33.1-30. (Reserved)

ARTICLE III
Tax Exemption for Elderly Dwelling Projects Established After January 1, 2005

Sec. 33.1-31. Preamble. [Ord. No. 1405, 2-16-2005]

It is acknowledged that it is a proper public purpose of the State of Michigan and its political subdivisions to provide housing for its elderly persons of low and moderate income and to encourage the development of such housing by providing for a service charge in lieu of property taxes in accordance with the State Housing Development Authority Act of 1966 (1966 PA 346, as amended, MCLA § 125.1401 et seq.) ("Act"). The City is authorized by the Act to establish or charge a service charge to be paid in lieu of taxes by any or all classes of housing exempt from taxation under the Act at any amount it chooses not to exceed the taxes that would be paid but for the Act.

It is further acknowledged that such housing for elderly persons of low or moderate income is a public necessity, and as the City will be benefited and improved by such housing, the encouragement of the same by providing certain real estate tax exemption therefore is a valid public purpose, further, that the continuation of the provisions of this article for tax exemption and the service charge in lieu of taxes during the period contemplated in this article are essential to the determination of economic feasibility of housing developments which are constructed and financed in reliance on such tax exemption.

Sec. 33.1-32. Definitions. [Ord. No. 1405, 2-16-2005; Ord. No. 1472, 4-18-2007]

For purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

ACT — The State Housing Development Authority Act, being Public Act 346 of 1966, of the State of Michigan, as amended.

AUTHORITY — The Michigan State Housing Development Authority.

CONTRACT RENTS — The rent payable to the owner of a qualified housing project under the owner's contract for the same including the portion of the rent payable by the tenant as well as that payable under any governmental subsidy.

DISABLED — A person who has a disability, as the term is defined pursuant to the Persons with Disabilities Act (Act 220 of the Public Acts of 1976) as existing or hereafter amended, or such federal acts as may define such term, as existing or hereafter amended, including but not limited to Section 504 of the Rehabilitation Act of 1972, the Federal Fair Housing Act, or the Americans with Disabilities Act.

ELDERLY — Those persons: (i) 62 years of age or older; or (ii) who otherwise qualify pursuant to the rules and regulations or practices of the HUD or the Authority for residency in an elderly housing project and are subject to a resolution of the City Council approving a project under (ii) of this section.

ELDERLY HOUSING PROJECT — A specific parcel of property, or divisible portion thereof, improved for rental to a low or moderate income individual which qualifies as an elderly housing project under the rules and regulations or standard practices of HUD or the Authority to the extent it is occupied by the elderly or held for rental exclusively to the elderly.

EXTENDED USE PERIOD — The time period described in the regulatory agreement entered into between the sponsor of an elderly housing project and the Authority.

LOW-INCOME HOUSING TAX CREDIT — A tax credit that is established under Section 42 of the Internal Revenue Code of 1986, as amended, that is allocated and administered by the Authority.

LOW-INCOME INDIVIDUAL — An elderly person whose household income does not exceed the definition of a low-income individual under the statutes, rules, and regulations or standard practices of HUD or the Authority.

MODERATE-INCOME INDIVIDUAL — An elderly person whose household income does not exceed the definition of a moderate-income individual under the statutes, rules, and regulations or standard practices of HUD or the Authority.

MORTGAGE LOAN — A loan made by the Authority or insured by HUD to the sponsor for the construction and permanent financing of an elderly housing project.

UTILITIES — Fuel, public water, public sanitary sewer service and/or electrical service.

Sec. 33.1-33. Class of project established after January 1, 2005. [Ord. No. 1405, 2-16-2005]

It is determined that the class of housing projects to which the exemption set forth in Section 33.1-34 shall apply, and for which a service charge shall be paid in lieu of taxes, shall be elderly housing projects, which are constructed and established pursuant to the Act, after January 1, 2005. Article I of Chapter 33.1 shall apply to all elderly housing projects constructed prior to December 1, 1991. Article II of Chapter 33.1 shall apply to all elderly housing projects constructed prior to January 1, 2005.

Sec. 33.1-34. Payment in lieu of taxes. [Ord. No. 1405, 2-16-2005; Ord. No. 1472, 4-18-2007]

That portion of an elderly housing projects exclusively and especially designated for and occupied by elderly or disabled persons of low and moderate income developed and constructed upon a parcel of land within the City sufficient for the operation of such project (but no larger) shall be exempt from all property taxation beginning in the year following commencement of construction and continuing as long as:

(1) The mortgage loan insured by HUD or assisted or financed by the Authority remains outstanding and unpaid; or

(2) The tax credit compliance period or any extended use period for low-income housing tax credits remain in effect; or

(3) HUD or the Authority has any interest in such property.

Notwithstanding the foregoing, an elderly housing project, including units occupied by the disabled, shall be subject to a service charge in lieu of property taxes in the amounts hereinafter set forth which shall be applied against contract rents of the preceding calendar year, exclusive of utility charges paid by tenants or by the project equal to 4% for the entire life of the loan.

Notwithstanding the foregoing, in no event shall the service charge, at any time, be less than the property taxes upon the land only without improvements for the tax year prior to the date when construction was commenced. If the land was exempt from property taxes in the tax year prior to the date when construction was commenced, the service charge shall be not less than the property taxes upon the land only without improvements assuming it was assessable and not exempt.

Sec. 33.1-35. Collection procedures. [Ord. No. 1405, 2-16-2005]

The service charge in lieu of taxes as determined hereunder shall be payable in the same manner as general property taxes are payable in the City; except, that the annual payment shall be paid on or before July 1 of each year. The entire tax collection procedure provided by the General Property Tax Act shall be effective with respect to such payment including, but not by way of limitation, the provisions providing for interest and penalties on late payments, return of delinquent taxes and the sale of lands for delinquent taxes.

Sec. 33.1-36. Contractual effect of article. [Ord. No. 1405, 2-16-2005]

Notwithstanding the provisions of Section 15(a)(5) of the Act[5] to the contrary, the City shall adopt a resolution between the City and a sponsor of an elderly housing project establishing a contract to provide tax exemption and accept payments in lieu thereof naming HUD or the Authority as a third party beneficiary to such contract.

5. Editor's Note: See MCLA § 125.1415a(5).

Sec. 33.1-37. Severability. [Ord. No. 1405, 2-16-2005]

The various sections and provisions of this article shall be deemed to be severable, and should any section or provision of this article be declared by any court of competent jurisdiction to be unconstitutional or invalid, the same shall not affect the validity of this article as a whole or any section or provision hereof other than the section or provision so declared to be unconstitutional or invalid.

Sec. 33.1-38. Effective date. [Ord. No. 1405, 2-16-2005]

This article shall become effective immediately upon its adoption and publication by the City Council. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

ARTICLE IIIA
Tax Exemption for Elderly Dwelling Projects Established After January 1, 2013

Sec. 33.1-38.1. Preamble. [8-21-2013 by Ord. No. 1615; 9-18-2013 by Ord. No. 1617]

It is acknowledged that it is a proper public purpose of the State of Michigan and its political subdivisions to provide housing for its elderly persons of low and moderate income and to encourage the development of such housing by providing for a service charge in lieu of property taxes in accordance with the State Housing Development Authority Act of 1966 [1966 PA 346, as amended, MCLA 125.1401 et seq. (Act)]. The City is authorized by the Act to establish or charge a service charge to be paid in lieu of taxes by any or all classes of housing exempt from taxation under the Act at any amount it chooses, not to exceed the taxes that would be paid but for the Act.

It is further acknowledged that such housing for elderly persons of low or moderate income is a public necessity, and as the City will be benefited and improved by such housing, the encouragement of the same by providing certain real estate tax exemption therefor is a valid public purpose; further, that the continuation of the provisions of this article for tax exemption and the service charge in lieu of taxes during the period contemplated in this article are essential to the determination of economic feasibility of housing developments which are constructed and financed in reliance on such tax exemption.

Sec. 33.1-38.2. Definitions. [8-21-2013 by Ord. No. 1615; 9-18-2013 by Ord. No. 1617]

For purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

ACT — The State Housing Development Authority Act, being Public Act 346 of 1966, of the State of Michigan, as amended.

ANNUAL SHELTER RENT — The total collections during an agreed annual period from all occupants of a qualified housing project representing rent or occupancy charges, exclusive of charges for gas, electric, or other utilities furnished the occupants as well as any amount payable under any governmental subsidy.

AUTHORITY — The Michigan State Housing Development Authority.

ELDERLY — Those persons:

(a) Sixty-two years of age or older; or

(b) Who otherwise qualify pursuant to the rules and regulations or practices of the Authority for residency in an elderly housing project and are subject to a resolution of the City Council approving a project under Section 33.1-36 of this chapter.

ELDERLY HOUSING PROJECT — A specific parcel of property, or divisible portion thereof, improved for rental to a low- or moderate-income individual which qualifies as an elderly housing project under the rules and regulations or standard practices of the Authority to the extent it is occupied by the elderly or held for rental exclusively to the elderly.

DISABLED — A person who has a disability, as the term is defined pursuant to the Persons with Disabilities Act (Act 220 of the Public Acts of 1976),[6] as existing or hereafter amended, or such federal acts as may define such term, as existing or hereafter amended, including but not limited to Section 504 of the Rehabilitation Act of 1972, the Federal Fair Housing Act,[7] or the Americans with Disabilities Act.[8]

LOW-INCOME INDIVIDUAL — An elderly person whose household income does not exceed the definition of a "low-income individual" under the statutes, rules, and regulations or standard practices of HUD or the Authority.

MODERATE-INCOME INDIVIDUAL — An elderly person whose household income does not exceed the definition of a "moderate-income individual" under the statutes, rules, and regulations or standard practices of HUD or the Authority.

MORTGAGE LOAN — A loan made by the Authority or insured by HUD to the sponsor for the construction and permanent financing of an elderly housing project.

UTILITIES — Fuel, public water, public sanitary sewer service and/or electrical service.

Sec. 33.1-38.3. Class of project established after January 1, 2013. [8-21-2013 by Ord. No. 1615; 9-18-2013 by Ord. No. 1617]

It is determined that the class of housing projects to which the exemption set forth in Section 33.1-24 shall apply, and for which a service charge shall be paid in lieu of taxes, shall be elderly housing projects, which are constructed and established pursuant to the Act, after January 1, 2013. Article I of Chapter 33.1 shall apply to all elderly housing projects constructed prior to December 1, 1991. Article II of Chapter 33.1 shall apply to all elderly housing projects constructed prior to January 1, 2005. Article III of Chapter 33.1 shall apply to all elderly housing projects constructed after January 1, 2005, and prior to December 31, 2012.

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6. Editor's Note: See MCLA § 37.1101 et seq.

7. Editor's Note: See 42 U.S.C. § 3601 et seq.

8. Editor's Note: See 42 U.S.C. § 12101 et seq.

Sec. 33.1-38.4. Payment in lieu of taxes. [8-21-2013 by Ord. No. 1615; 9-18-2013 by Ord. No. 1617]

(a) That portion of an elderly housing project exclusively and especially designated for and occupied by elderly or disabled persons of low and moderate income developed and constructed upon a parcel of land within the City sufficient for the operation of such project (but no larger) shall be exempt from all property taxation beginning in the year following commencement of construction and continuing for the term specified in Section 33.1-38.7. Notwithstanding the foregoing, an elderly housing project, including units occupied by the disabled, shall be subject to a service charge in lieu of property taxes in the amounts hereinafter set forth which shall be applied against annual shelter rent of the preceding calendar year, exclusive of utility charges paid by tenants based upon the following schedule:

(1) Calendar year 1 through 4: 4.0%.

(2) Calendar year 5 through 8: 4.5%.

(3) Calendar year 9 through 12: 5.0%

(4) Calendar year 13 through 15: 5.5%

(5) After calendar year 15: 6.0%.

(b) Notwithstanding the foregoing, in no event shall the service charge, at any time, be less than the property taxes upon the land only without improvements for the tax year prior to the date when construction was commenced.

Sec. 33.1-38.5. Collection procedures. [8-21-2013 by Ord. No. 1615; 9-18-2013 by Ord. No. 1617]

The service charge in lieu of taxes as determined hereunder shall be payable in the same manner as general property taxes are payable in the City, except that the annual payment shall be paid on or before July 1 of each year. The entire tax collection procedure provided by the General Property Tax Act[9] shall be effective with respect to such payment, including, but not by way of limitation, the provisions providing for interest and penalties on late payments, return of delinquent taxes and the sale of lands for delinquent taxes.

Sec. 33.1-38.6. Contractual effect of article. [8-21-2013 by Ord. No. 1615; 9-18-2013 by Ord. No. 1617]

Notwithstanding the provisions of Section 15(a)(5) of the Act[10] to the contrary, the City shall adopt a resolution between the City and a sponsor of an elderly housing project establishing a contract to provide tax exemption and accept payments in lieu thereof naming HUD or the Authority as a third-party beneficiary to such contract.

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9. Editor's Note: See MCLA § 211.1 et seq.

10. Editor's Note: See MCLA § 125.1415a(5).

Sec. 33.1-38.7. Duration. [8-21-2013 by Ord. No. 1615; 9-18-2013 by Ord. No. 1617]

The duration of the service charge in lieu of taxes and the exemption established by this article shall continue as long as a mortgage loan remains outstanding and unpaid, or the Authority has any interest in the property, but, in no event, later than 37 years after the issuance of a certificate of occupancy for the operation of the project.

Sec. 33.1-38.8. Severability. [8-21-2013 by Ord. No. 1615; 9-18-2013 by Ord. No. 1617]

The various sections and provisions of this article shall be deemed to be severable, and should any section or provision of this article be declared by any court of competent jurisdiction to be unconstitutional or invalid, the same shall not affect the validity of this article as a whole or any section or provision hereof other than the section or provision so declared to be unconstitutional or invalid.

Sec. 33.1-38.9. When effective; repealer. [8-21-2013 by Ord. No. 1615; 9-18-2013 by Ord. No. 1617]

This article shall become effective immediately upon its adoption as an emergency ordinance pursuant to Section 5.4 and 5.5 of the Holland City Charter. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

ARTICLE IV
Windscape Apartments Tax Exemption

Sec. 33.1-39. Title. [Ord. No. 1476, 5-2-2007]

This article shall hereinafter be known and cited as the "Windscape Apartments Tax Exemption Ordinance".

Sec. 33.1-40. Preamble. [Ord. No. 1476, 5-2-2007]

It is acknowledged that it is a proper public purpose of the State of Michigan and its political subdivisions to provide housing for its citizens of low-income and to encourage the development of such housing by providing for a service charge in lieu of property taxes in accordance with the State Housing Development Authority Act of 1966 [1966 PA 346, as amended, MCLA § 125.1401 et seq. (the "Act")]. The City is authorized by this Act to establish or charge the service charge to be paid in lieu of taxes by any or all classes of housing exempt from taxation under this Act at any amount it chooses not to exceed the taxes that would be paid but for the Act. It is further acknowledged that such housing for persons of low income is a public necessity, and as the City will be benefited and improved by such housing, the encouragement of the same by providing certain real estate tax exemption for such housing is a valid public purpose; further, that the continuance of the provisions of this article for tax exemption and the service charge in lieu of taxes during the period contemplated in this article are essential to the determination of the economic feasibility of the housing development which is constructed and financed in reliance on such tax exemption.

The City acknowledges that the Windscape Limited Dividend Housing Association Limited Partnership of 30100 Telegraph Road, Suite #426 Bingham Farms, MI 48025 (the "sponsor") has offered, subject to receipt of a federally aided mortgage (as defined below), to acquire, rehabilitate and operate a housing development identified as Windscape Apartments to serve persons or families of low income, and that the sponsor has offered to pay the City on account of this housing development an annual service charge for public services in lieu of all taxes.

The City further acknowledges that the sponsor proposes to acquire Windscape Apartments; rehabilitate and reconstruct substantial improvements to Windscape Apartments; seek to maintain and preserve Section 8 rental benefits; and provide for the affordable housing stock for the benefit of the residents of the City of Holland. Based upon these public purposes, the City of Holland adopts this article.

Sec. 33.1-41. Definitions. [Ord. No. 1476, 5-2-2007]

All terms shall be defined as set forth in the State Housing Development Authority Act of 1966, being Public Act 346 of 1966, of the State of Michigan, as amended, except as follows:

ACT — The State Development Authority Act, being Public Act 346 of 1966, of the State of Michigan, as amended.

ANNUAL SHELTER RENTS — The total collections during an agreed annual period from all occupants of a housing development representing rent or occupancy charges, exclusive of charges for gas, electricity, heat or other utilities furnished to the occupants, including the portion of the rent payable under any governmental subsidy.

AUTHORITY — The Michigan State Housing Development Authority.

CALENDAR YEAR — The consecutive twelve-month period which ends on December 31 of the year immediately preceding the year in which the service charge is to be paid.

FEDERALLY AIDED MORTGAGE — Any of the following:

(1) A below-market interest rate mortgage insured, purchased, or held by the Secretary of the Department of Housing and Urban Development.

(2) A market interest rate mortgage insured by the Secretary of Housing and Urban Development and augmented by a program of rent subsidies.

(3) A mortgage receiving interest rate reduction payments provided by the Secretary of the Department of Housing and Urban Development.

(4) A mortgage on a housing development to which the Authority allocates low-income housing tax credits under Section 22b of the Act.[11]

(5) A mortgage receiving special benefits under other federal law designated specifically to develop low and moderate-income housing, consistent with the Act.

11. Editor's Note: See MCLA § 125.1422b.

HOUSING DEVELOPMENT — A development which contains a significant element of housing for persons or families of low income and such elements of other housing, commercial, recreational, industrial, communal and educational facilities as the Authority determines improve the quality of the development as it relates to housing for persons or families of low income.

LOW-INCOME PERSONS OR FAMILIES — Shall have the same meaning as found in Section 15(a)(7) of the Act.[12]

MORTGAGE LOAN — A loan to be made by the Authority to the sponsor for the construction and/or permanent financing of the housing development.

SPONSOR — Windscape Limited Dividend Housing Association Limited Partnership, 30100 Telegraph Road, Suite #426, Bingham Farms, MI 48025, its successors in interest, which has applied to the Authority for a mortgage loan and an allocation of low-income housing tax credits to finance the housing development.

UTILITIES — Fuel, water, sanitary sewer service and/or electrical service which are paid by the housing development.

Sec. 33.1-42. Class of housing developments established after January 1, 2007. [Ord. No. 1476, 5-2-2007]

It is determined that the class of housing developments to which the tax exemption shall apply and for which a service charge shall be paid in lieu of such taxes shall those housing developments be acquired, rehabilitated and operated for the benefit of low-income persons or families, which are financed or assisted pursuant to the Act. It is further determined that Windscape Apartments is of this class, and this Article IV shall relate solely to the sponsor of this housing development.

Article IV of this chapter shall only apply to housing developments that are rehabilitations of existing properties and shall not apply to new construction. The sponsor of rehabilitation projects must contribute a significant amount of capital in the rehabilitation process and must meet the goals and objectives set forth in Section 33.1-40.

Sec. 33.1-43. Establishment of annual service charge. [Ord. No. 1476, 5-2-2007]

Subject to the receipt of a federally aided mortgage, the housing development identified as Windscape Apartments exclusively and specially designated for low-income persons and families shall be exempt from all property taxation beginning in the year following the commencement of rehabilitation construction and continuing as long as the mortgage loan insured by HUD or assisted or financed by the Authority remains outstanding and unpaid and as long as HUD or the Authority has any interest in such property. Notwithstanding the foregoing, Windscape Apartments shall be subject to a service charge in lieu of property taxes in the amount hereinafter set forth which shall be applied against annual shelter rents of the preceding calendar year, exclusive of utility charges paid by tenants or by the sponsor, equal to 4% for the entire life of the federally aided mortgage.

12. Editor's Note: See MCLA § 125.1415a(7).

Notwithstanding the foregoing, in no event shall the service charge, at any time, be less than the property taxes upon the land only (without improvements) of the housing development for the tax year prior to the date when rehabilitation was commenced.

Sec. 33.1-44. Limitation on the payment of annual service charge. [Ord. No. 1476, 5-2-2007]

Notwithstanding Section 33.1-43, the service charge to be paid each year in lieu of taxes for the part of the housing development which is tax exempt and which is occupied by other than low-income persons or families shall be equal to the full amount of the taxes which would be paid on that portion of the housing development if the housing development were not tax exempt.

Sec. 33.1-45. Contractual effect of article. [Ord. No. 1476, 5-2-2007]

Notwithstanding the provisions of Section 15(a)(5) of the Act[13] to the contrary, a contract between the City and the sponsor with the Authority as third party beneficiary under the contract, to provide tax exemption and accept payments in lieu of taxes, as previously described, is effectuated by enactment of this article.

Sec. 33.1-46. Payment of service charge. [Ord. No. 1476, 5-2-2007]

The service charge in lieu of taxes as determined hereunder shall be payable in the same manner as general property taxes are payable in the City of Holland; except that the annual payment shall be paid on or before July 1 of each year. The entire tax collection procedure including the lien status for nonpayment provided by the General Property Tax Act of the State of Michigan, including applicable provisions of the Charter of the City of Holland, shall be effective with respect to such payment, including, but not by way of limitation, the provisions providing for interest and penalties on late payments, return of delinquent taxes, and the sale of lands for delinquent taxes.

Sec. 33.1-47. Duration. [Ord. No. 1476, 5-2-2007]

This article shall remain in effect and shall not terminate so long as the federally aided mortgage remains outstanding and unpaid or the Authority has any interest in the property provided, that the rehabilitation construction of the housing development commences within one year from the effective date of this article.

Sec. 33.1-48. Severability. [Ord. No. 1476, 5-2-2007]

The various sections and provisions of this article shall be deemed to be severable, and should any section or provision of this article be declared by any court of competent jurisdiction to be unconstitutional or invalid the same shall not affect the validity of the article as a whole or the section or provision of this article other than the section or provision so declared to be unconstitutional or invalid.

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13. Editor's Note: See MCLA § 125.1415a(5).

Sec. 33.1-49. Effective date. [Ord. No. 1476, 5-2-2007]

This article shall become effective upon the adoption by the Council of the City of Holland, and within 21 days after adoption and publication in accordance with the Charter of the City of Holland.

ARTICLE V
Greenbriar Apartments Tax Exemption

Sec. 33.1-50. Title. [Ord. No. 1538, 9-16-2009[14]]

This article shall hereinafter be known and cited as the "Greenbriar Apartments Tax Exemption Ordinance."

Sec. 33.1-51. Preamble. [Ord. No. 1538, 9-16-2009]

It is acknowledged that it is a proper public purpose of the State of Michigan and its political subdivisions to provide housing for its citizens of low-income and elderly persons of low and moderate income and to encourage the development of such housing by providing for a service charge in lieu of property taxes in accordance with the State Housing Development Authority, Act 346 of 1966, as amended, MCLA § 125.1401 et seq. (the "Act"). The City is authorized by this Act to establish or charge the service charge to be paid in lieu of taxes by any or all classes of housing exempt from taxation under this Act at any amount it chooses not to exceed the taxes that would be paid but for the Act. It is further acknowledged that such housing for persons of low-income and elderly persons of low and moderate income is a public necessity, and as the City will be benefited and improved by such housing, the encouragement of the same by providing certain real estate tax exemption for such housing is a valid public purpose; further, that the continuance of the provisions of this article for tax exemption and the service charge in lieu of taxes during the period contemplated in this article are essential to the determination of the economic feasibility of the housing development which is constructed and financed in reliance on such tax exemption.

The City acknowledges that the KBJ Greenbriar Limited Dividend Housing Association Limited Partnership of 1822 W. Milham, Suite 1-A, Portage, Michigan 49024 (the "sponsor") has offered, subject to receipt of a "federally aided mortgage" (as defined below), to acquire, rehabilitate and operate 126 apartment units in a housing development identified as Greenbriar Apartments, which is legally described in Exhibit A [attached to Ord. No. 1538], (the "Greenbriar Units") to serve persons or families of low-income and elderly persons of low or moderate income, and that the sponsor has offered to pay the City on account of this housing development an annual service charge for public services in lieu of all taxes. The sponsor acknowledges and represents that 66 of the 126 [apartment units] will be leased to elderly persons of low or moderate income.

The City further acknowledges that the sponsor proposes to acquire Greenbriar Units; rehabilitate and reconstruct substantial improvements to Greenbriar Apartments; seek to maintain and preserve Section 8 Rental benefits; and provide for the affordable housing stock

14. Editor's Note: This ordinance also rescinded former Art. V, Greenbriar Apartments Tax Exemption, adopted by Ord. No. 1515.

for the benefit of the residents of the City of Holland. Based upon these public purposes, the City of Holland adopts this article.

Sec. 33.1-52. Definitions. [Ord. No. 1538, 9-16-2009]

All terms shall be defined as set forth in the Act, as amended, except as follows:

ACT — The State Development Authority Act, being Public Act 346 of 1966, of the State of Michigan, as amended.

ANNUAL SHELTER RENTS — The total collections during an agreed annual period or on behalf of from all occupants of a housing development representing rent or occupancy charges, exclusive of charges for gas, electricity, heat or other utilities furnished to the occupants, including the portion of the rent payable under any governmental subsidy program.

AUTHORITY — The Michigan State Housing Development Authority.

CALENDAR YEAR — The consecutive twelve-month period which ends on December 31 of the year immediately preceding the year in which the service charge is to be paid.

ELDERLY — A single person who is 55 years of age or older or a household in which at least one member is 55 years of age or older and all other members are 50 years of age or older.

FEDERALLY AIDED MORTGAGE — Any of the following:

(1) A below-market interest rate mortgage insured, purchased, or held by the Secretary of the Department of HUD.

(2) A market interest rate mortgage insured by the Secretary of HUD and augmented by a program of rent subsidies.

(3) A mortgage receiving interest rate reduction payments provided by the Secretary of the Department of HUD.

(4) A mortgage on a housing development to which the Authority allocates low-income housing tax credits under Section 22b of the Act.[15]

(5) A mortgage receiving special benefits under other federal law designated specifically to develop low and moderate-income housing, consistent with the Act.

HOUSING DEVELOPMENT — A development which contains a significant element of housing for low-income persons or families or elderly persons of low or moderate income and such elements of other housing, commercial, recreational, industrial, communal and educational facilities as the Authority determines improve the quality of the development as it relates to housing for low-income persons or families or elderly persons of low or moderate income.

15. Editor's Note: See MCLA § 125.1422b.

LOW-INCOME OR MODERATE-INCOME PERSONS — Shall have the same meaning as found in Section 11(g) of the Act.[16]

LOW-INCOME PERSONS OR FAMILIES — Shall have the same meaning as found in Section 15(a)(7) of the Act.[17]

MORTGAGE LOAN — A loan to be made by the Authority to the sponsor for the construction and/or permanent financing of the housing development.

SPONSOR — KBJ Greenbriar Limited Dividend Housing Association Limited Partnership, 1822 W. Milham, Suite 1-A, Portage, Michigan 49024, its successors in interest, which has applied to the Authority for a mortgage loan and an allocation of low-income housing tax credits to finance the housing development.

UTILITIES — Fuel, water, sanitary sewer service and/or electrical service which are paid by a housing development.

Sec. 33.1-53. Class of housing developments established after January 1, 2008. [Ord. No. 1538, 9-16-2009]

It is determined that the class of housing developments to which the tax exemption shall apply and for which a service charge shall be paid in lieu of such taxes shall be those housing developments acquired, rehabilitated, and operated for the benefit of low-income persons and elderly persons of low income or moderate income, which are financed or assisted pursuant to the Act. It is further determined that Greenbriar Apartments is of this class, and this Article V shall relate solely to the sponsor of this housing development.

Article V of this chapter shall only apply to housing developments that are rehabilitations of existing properties and shall not apply to new construction. The sponsor of rehabilitation projects must contribute a significant amount of capital in the rehabilitation process and must meet the goals and objectives set forth in Section 33.1-51.

Sec. 33.1-54. Establishment of annual service charge. [Ord. No. 1538, 9-16-2009]

Subject to the receipt of a federally aided mortgage, the housing development identified as Greenbriar Apartments exclusively and specially designated for low-income persons or elderly persons of low or moderate income shall be exempt from all property taxation beginning in the year following the commencement of rehabilitation and continuing as long as the mortgage loan insured by HUD or assisted or financed by the Authority remains outstanding and unpaid and as long as HUD or the Authority has any interest in such property. Notwithstanding the foregoing, Greenbriar Apartments shall be subject to a service charge in lieu of property taxes in the amount hereinafter set forth which shall be applied against annual shelter rents of the preceding calendar year, exclusive of utility charges paid by tenants or by the sponsor, equal to 4% for the entire life of the federally aided mortgage.

16. Editor's Note: See MCLA § 125.1411(g).

17. Editor's Note: See MCLA § 125.1415a(7).

Notwithstanding the foregoing, in no event shall the service charge, at any time, be less than the property taxes upon the land only (without improvements) of the housing development for the tax year prior to the date when rehabilitation was commenced.

Sec. 33.1-55. Limitation on the payment of annual service charge. [Ord. No. 1538, 9-16-2009]

Notwithstanding Section 33.1-54, the service charge to be paid each year in lieu of taxes for the part of the housing development which is tax exempt and which is occupied by other than low-income persons or families or elderly persons of low or moderate income shall be equal to the full amount of the taxes which would be paid on that portion of the housing development if the housing development were not tax exempt.

Sec. 33.1-56. Contractual effect of ordinance. [Ord. No. 1538, 9-16-2009]

Notwithstanding the provisions of Section 15(a)(5) of the Act[18] to the contrary, a contract between the City and the sponsor with the Authority as third party beneficiary under the contract, to provide tax exemption and accept payments in lieu of taxes, as previously described, is effectuated by enactment of this ordinance [article].

Sec. 33.1-57. Payment of service charge. [Ord. No. 1538, 9-16-2009]

The service charge in lieu of taxes as determined hereunder shall be payable in the same manner as general property taxes are payable in the City of Holland; except that the annual payment shall be paid on or before July 1 of each year. The entire tax collection procedure including the lien status for nonpayment provided by the General Property Tax Act of the State of Michigan, including applicable provisions of the Charter of the City of Holland, shall be effective with respect to such payment, including, but not by way of limitation, the provisions providing for interest and penalties on late payments, return of delinquent taxes, and the sale of lands for delinquent taxes.

Sec. 33.1-58. Duration. [Ord. No. 1538, 9-16-2009]

This article shall remain in effect and shall not terminate so long as the federally aided mortgage remains outstanding and unpaid and the Authority or HUD has an interest in the property provided, that the rehabilitation construction of the housing development commences within one year from the effective date of this article.

Sec. 33.1-59. Severability. [Ord. No. 1538, 9-16-2009]

The various sections and provisions of this article shall be deemed to be severable, and should any section or provision of this article be declared by any court of competent jurisdiction to be unconstitutional or invalid the same shall not affect the validity of the article as a whole or the section or provision of this article other than the section or provision so declared to be unconstitutional or invalid.

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18. Editor's Note: See MCLA § 125.1415a(5).

Sec. 33.1-60. Effective date. [Ord. No. 1538, 9-16-2009]

This article shall become effective upon the adoption by the Council of the City of Holland, and is declared to be an emergency ordinance pursuant to Section 5.5 of the Holland City Charter authorizing the Council of the City of Holland to adopt an ordinance upon declaration of emergency.

ARTICLE VI
Elderly and Other Low-Income Persons Housing Tax Exemption

Sec. 33.1-61. Title. [Added 3-15-2017 by Ord. No. 1686; amended 10-30-2019 by Ord. No. 1775]

This article shall be known and cited as the "City of Holland Low Income Housing Tax Exemption Ordinance."

Sec. 33.1-62. Preamble. [Added 3-15-2017 by Ord. No. 1686; amended 10-30-2019 by Ord. No. 1775]

It is acknowledged that it is a proper public purpose of the State of Michigan and its political subdivisions to provide housing for its elderly and other low-income persons and families and to encourage the development of such housing by providing for a service charge in lieu of property taxes in accordance with the Act. The City of Holland is authorized by this Act to establish or charge the service charge to be paid in lieu of taxes by any or all classes of housing exempt from taxation under this Act at any amount it chooses, not to exceed the taxes that would be paid but for this Act. It is further acknowledged that such housing for low income persons and families is a public necessity, and as the City of Holland will be benefited and improved by such housing, the encouragement of the same by providing real estate tax exemption for such housing is a valid public purpose. It is further acknowledged that the continuance of the provisions of this article for tax exemption and the service charge in lieu of all ad valorem taxes during the period contemplated in this article are essential to the determination of economic feasibility of the housing projects that is constructed or rehabilitated with financing extended in reliance on such tax exemption.

The City of Holland acknowledges that the tax exemption authorized by this article shall only apply when a sponsor (as defined below) has offered, subject to receipt of an allocation under the LIHTC Program by the Michigan State Housing Development Authority, to construct, acquire or refinance and operate a housing project in the City of Holland identified by resolution of Council to serve elderly and other low-income persons and families, and the sponsor has offered to pay the City on account of this housing project an annual service charge for public services in lieu of all ad valorem property taxes and otherwise complied with this article.

Sec. 33.1-63. Definitions. [Added 3-15-2017 by Ord. No. 1686; amended 10-30-2019 by Ord. No. 1775]

ACT — The State Housing Development Authority Act, being Public Act 346 of 1966, of the State of Michigan, as amended, being MCLA 125.1415a.

ANNUAL SHELTER RENT — The total collections during an agreed annual period from or paid on behalf of all occupants of a housing project representing rent or occupancy charges, exclusive of utilities.

AUTHORITY — The Michigan State Housing Development Authority.

CONTRACT RENTS — The total contract rents (as defined by the U.S. Department of Housing and Urban Development in regulations promulgated pursuant to Section 8 of the U.S. Housing Act of 1937, as amended) received in connection with the operation of a housing project during an agreed annual period, exclusive of utilities.

LIHTC PROGRAM — The Low-Income Housing Tax Credit program administered by the Authority under Section 42 of the Internal Revenue Code of 1986, as amended.

LOW INCOME PERSONS AND FAMILIES — Persons and families eligible to move into a housing project.

MORTGAGE LOAN — A loan that is federally aided [as defined in Section 11 of the Act (MCLA 125.1411)] or a loan or grant made or to be made by the Authority for the construction, rehabilitation, acquisition and/or permanent financing of a housing project and secured by a mortgage on the housing project.

PROPERTY — The real property of a housing project identified in a resolution adopted by the City Council as eligible for the tax exemption under this article.

SPONSOR — The entity that is identified by a resolution adopted by the City Council and any successor entity that receives or assumes a mortgage loan.

UTILITIES — Charges for gas, electric, water, sanitary sewer and other utilities furnished to the occupants that are paid by the housing project.

Sec. 33.1-64. Class of housing developments. [Added 3-15-2017 by Ord. No. 1686; amended 10-30-2019 by Ord. No. 1775]

It is determined that the class of housing projects to which the tax exemption under the Act shall apply and for which a service charge shall be paid in lieu of such taxes shall be housing projects for low income persons and families that are financed with a mortgage loan that are designated from time to time by a resolution adopted by the City Council pursuant to this section.

Sec. 33.1-65. Establishment of annual service charge. [Added 3-15-2017 by Ord. No. 1686; amended 10-30-2019 by Ord. No. 1775]

The property shall be exempt from all ad valorem property taxes from and after the commencement of construction or rehabilitation or as set forth by resolution for the duration set forth in Section 33.1-69. The City of Holland acknowledges that the sponsor and the Authority, in the case of a sponsor receiving an Authority-financed mortgage loan, or the sponsor and the mortgage lender, in the case of a sponsor receiving a federally aided mortgage loan, have established the economic feasibility of the housing project in reliance upon the enactment and continuing effect of this article, and the qualification of the housing project for exemption from all ad valorem property taxes and a payment in lieu of taxes as

established in this article. Therefore, in consideration of the sponsor's offer to construct or refinance and upgrade and operate the housing project, the City agrees to accept payment of an annual service charge for public services in lieu of all ad valorem property taxes. Subject to receipt of a mortgage loan, the annual service charge shall be equal to 4% of the annual shelter rents or contract rents actually collected by the housing project during each operating year.

Sec. 33.1-66. Contractual effect of ordinance. [Added 3-15-2017 by Ord. No. 1686; amended 10-30-2019 by Ord. No. 1775]

Notwithstanding the provisions of Section 15a(5) of the Act to the contrary, a contract between the City and the sponsor with the Authority as third party beneficiary under the contract, to provide tax exemption and accept payments in lieu of taxes, as previously described, is effectuated by enactment of this article.

The tax exemption is contingent upon the sponsor entering into a development agreement and municipal services agreement with the City.

Sec. 33.1-67. Limitation on the payment of annual service charge. [Added 3-15-2017 by Ord. No. 1686; amended 10-30-2019 by Ord. No. 1775]

Notwithstanding Section 33.1-65, the service charge to be paid each year in lieu of taxes for the part of the housing project that is tax exempt, but which is occupied by other than low income persons or families shall be equal to the full amount of the taxes which would be paid on that portion of the housing project if the housing project were not tax exempt.

Sec. 33.1-68. Payment of service charge. [Added 3-15-2017 by Ord. No. 1686; amended 10-30-2019 by Ord. No. 1775]

The annual service charge in lieu of taxes as determined under this article shall be payable in the same manner as general property taxes are payable to the City and distributed to the several units levying the general property tax in the same proportion as prevailed with the general property tax in the previous calendar year. The annual payment for each operating year and the annual payment due under the municipal services agreement shall be paid on or before July 1 of each year. The entire tax collection procedure, including the lien status for nonpayment provided by the General Property Tax Act of the State of Michigan (1893 P.A. 206, as amended; MCLA § 211.1 et seq.), including applicable provisions of the Charter of the City of Holland, shall be effective with respect to such payment, including, but not by way of limitation, the provisions providing for interest and penalties on late payments, return of delinquent taxes, and the sale of lands for delinquent taxes.

Sec. 33.1-69. Duration. [Added 3-15-2017 by Ord. No. 1686; amended 10-30-2019 by Ord. No. 1775]

This article shall remain in effect for the lesser of:

(1) The time set in the resolution adopted by the City Council; or

(2) So long as a mortgage loan remains outstanding and unpaid or the housing project remains subject to income and rent restrictions under the LIHTC Program.

Sec. 33.1-70. Severability. [Added 3-15-2017 by Ord. No. 1686; amended 10-30-2019 by Ord. No. 1775]

The various sections and provisions of this article shall be deemed to be severable and should any section or provision of this article be declared by any court of competent jurisdiction to be unconstitutional or invalid the same shall not affect the validity of this article as a whole or any section or provision of this article, other than the section or provision so declared to be unconstitutional or invalid.

ARTICLE VII
Tax Exemption for Elderly Dwelling Projects Established After January 1, 2018

Sec. 33.1-71. Class of project to which exemption applies. [9-19-2018 by Ord. No. 1744]

It is determined that the class of housing projects to which the exemption set forth in § 33.1-24 shall apply, and for which a service charge shall be paid in lieu of taxes, shall be elderly low- and moderate-income housing projects, which are constructed and established pursuant to the Act, after January 1, 2018. § 33.1-38.1, § 33.1-38.2 and §§ 33.1-38.5 through 33.1-38.9 of Article IIIA of Chapter 33.1 shall apply to all elderly housing projects constructed after January 1, 2018, except as modified in this Article VII.

Sec. 33.1-72. Payment in lieu of taxes. [9-19-2018 by Ord. No. 1744]

(1) That portion of an elderly housing project exclusively and especially designated for and occupied by elderly or disabled persons of low and moderate income developed and constructed upon a parcel of land within the City sufficient for the operation of such project (but no larger) which is constructed after January 1, 2018, shall be exempt from all property taxation beginning in the year following commencement of construction and continuing for the term of 20 years when approved by resolution of the City Council. Notwithstanding the foregoing, an elderly housing project, including units occupied by the disabled, constructed after January 1, 2018, shall be subject to a service charge in lieu of property taxes in the amounts hereinafter set forth which shall be applied against annual shelter rent of the preceding calendar year, exclusive of utility charges paid by tenants of 4%.

(2) Notwithstanding the foregoing, in no event shall the service charge, at any time, be less than the property taxes upon the land only without improvements for the tax year prior to the date when construction was commenced.

Sec. 33.1-73. Local approvals and agreements. [9-19-2018 by Ord. No. 1744]

The developer shall enter into a development agreement and municipal services agreement with the City.

Chapter 33.2

PROPERTY TAX ADMINISTRATION FEE

Sec. 33.2-1. Preamble.

Sec. 33.2-2. Purpose of the property tax administration fee.

Sec. 33.2-3. Adoption of property tax administration fee; effective date.

Sec. 33.2-4. Late penalty charge.

Sec. 33.2-5. Waiver of interest and penalty charges.

Sec. 33.2-6. Property tax administration fee and late penalty fee; lien and collection.

Sec. 33.2-7. Collection of summer taxes.

Sec. 33.2-8. Rescission of prior resolution.

Sec. 33.2-9. Validity.

Sec. 33.2-1. Preamble. [Ord. No. 1112, 5-18-1994]

Pursuant to Act 399 of the Public Acts of 1984, as amended, MCLA § 211.44 et seq., a property tax administration fee is hereby adopted.

Sec. 33.2-2. Purpose of the property tax administration fee. [Ord. No. 1112, 5-18-1994]

The property tax administration fee shall be used solely to offset costs incurred the City in assessing property values; in collecting property tax levies; in the review and appeal of assessments, and such other purposes as shall be authorized pursuant to Act 399 of the Public Acts of 1984, as amended.

Sec. 33.2-3. Adoption of property tax administration fee; effective date. [Ord. No. 112, 5-18-1994; Ord. No. 1211, 5-20-1998]

Commencing with the real and personal property ad valorem taxes levied effective July 1, 1998 and December 1, 1998, and on such dates as shall be hereafter authorized by statute and/or Charter, the City Treasurer shall add a property tax administration fee of 1% computed on the aggregate amount of real and personal property taxes collected and due thereafter. This authorization for the imposition of a property tax administration fee shall be valid for all levies that become a lien after the adoption of this ordinance. The amendment of this section shall not affect the collection and enforceability of a property tax administration fee imposed pursuant to this section prior to its amendment.

Sec. 33.2-4. Late penalty charge. [Ord. No. 1112, 5-18-1994; Ord. No. 1211, 5-20-1998]

On real and personal property taxes paid after February 14, 1999, and after February 14 of each succeeding year thereafter, and prior to March 1, 1999 and prior to March 1 of each succeeding year thereafter, the City Treasurer shall add an additional 3% late penalty charge on all taxes paid after February 14 and before March 1. This authorization for the imposition

of a late penalty charge shall be valid for all levies that become a lien after the adoption of this ordinance. The amendment of this section shall not affect the collection and enforceability of an additional 1% property tax administration fee and a 3% late penalty charge imposed pursuant to this section prior to its amendment.

Sec. 33.2-5. Waiver of interest and penalty charges. [Ord. No. 1112, 5-18-1994; Ord. No. 1491, 2-6-2008]

(1) The City Treasurer may waive interest accruing on the delinquent summer property tax as defined by Section 10.15 of the Charter, interest on taxes from February 15 to March 1, and late penalty charges for the homestead property of a senior citizen, paraplegic, quadriplegic, eligible service man, eligible veteran, eligible widow, totally and permanently disabled person, or blind person, as those persons are defined in Chapter 9 of Act 281 of the Public Acts of 1967, as amended, being MCLA § 206.501 to 206.532, if such person makes a claim before February 15 for a credit for that property provided by Chapter 9 of Act 281 of the Public Acts of 1967, as amended, presents a copy of the form filed for that credit with the City Treasurer, and if such person has not received the credit before February 15.

(2) The City Council may waive interest on delinquent personal property taxes, in whole or in part, if the taxpayer executes and complies with an acceptable written tax payment agreement setting forth a plan to cure the delinquency.

(3) The City Treasurer may waive interest on delinquent personal property taxes:

(a) To the extent of $200 per tax year, per personal property tax parcel number and without City Council approval, if the taxpayer executes and complies with an acceptable written tax payment agreement to cure the delinquency; or

(b) To the extent of $500 per tax year, to allow collection of delinquent personal property taxes in an action within the jurisdiction of the small claims division of the district court.

(4) A waiver may be revoked if the taxpayer fails to pay as agreed.

Sec. 33.2-6. Property tax administration fee and late penalty fee; lien and collection. [Ord. No. 1112, 5-18-1994]

The property tax administration fees and late penalty fees as established by this chapter shall become a lien and enforced in the same manner as delinquent, real and personal property taxes pursuant to statute and charter.

Sec. 33.2-7. Collection of summer taxes. [Ord. No. 1112, 5-18-1994]

The collection procedure for summer taxes pursuant to Section 10.15 of the Charter is hereby reaffirmed and shall be collected in accordance with the provisions set forth therein.

Sec. 33.2-8. Rescission of prior resolution.

The resolution of City Council adopted December 21, 1983 as Council Action No. 83.685 shall be rescinded upon the effective date of this article [June 8, 1994]. The rescission of this resolution shall not affect the collection and enforceability of delinquent taxes which became delinquent prior to the adoption of this ordinance.

Sec. 33.2-9. Validity. [Ord. No. 1112, 5-18-1994]

(a) Severability. If any section, subsection, paragraph, sentence, clause or phrase of this chapter shall be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of this chapter which shall continue in full force and effect, and to this end the provisions of this chapter are hereby declared to be severable.

(b) Savings clause. This chapter shall not effect violations of any other ordinance, code, resolution, or regulation of the City existing prior to the effective date hereof, and any such violation shall be governed and shall continue to be punishable to the full extent of the law under the provisions of those ordinances, codes, resolutions, or regulations in effect at the time the violation was committed.

Chapter 34

TAXICABS AND BUSES

ARTICLE I
(Reserved)

Sec. 34-1. through Sec. 34-26. (Reserved)

ARTICLE II
(Reserved)

Sec. 34-27. through Sec. 34-36. (Reserved)

ARTICLE III
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Sec. 34-27. through Sec. 34-36. (Reserved)

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1. **Editor's Note: Former Article I, Taxicabs and Taxi Buses, adopted by Ord. No. 1392, as amended, was repealed 1-17-2018 by Ord. No. 1722.**

2. **Editor's Note: Former Article I, Taxicabs and Taxi Buses, consisting of Sections 34-1 through 34-26, adopted by Ord. No. 1392, as amended, was repealed 1-17-2018 by Ord. No. 1722.**

3. **Editor's Note: Former Article II, Motor Buses, from the 1955 Code, consisting of Sections 34-27 through 34-36, as amended, was repealed 1-17-2018 by Ord. No. 1722.**

ARTICLE III

Pedicabs

Sec. 34-37. Purpose. [Ord. No. 1562, 3-23-2011]

The transportation of persons by means of pedicabs is a matter closely affecting the public interest. The public interest requires that pedicab drivers be properly qualified persons, that the pedicabs be fit for their intended purpose and that the safety and welfare of passengers be protected in the operation of pedicabs.

Sec. 34-38. Definitions. [Ord. No. 1562, 3-23-2011]

For purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

(a) PEDICAB — A multiwheeled passenger vehicle that is moved by human power that is pulled, pushed, or otherwise propelled by a person, which is used in the movement of passengers on public rights-of-way and shall include vehicles pulled or pushed directly by human power and vehicles propelled through a cycle or other mechanical means. Pedicab shall include, but not be limited to, cycle rickshaws, cyclos, geotaxis, trishaws, bike taxis and any other pushcart or rickshaw-type vehicle.

(b) PEDICAB OWNER — A person who is the owner of a pedicab or a proprietor of a pedicab business who supplies pedicabs to others to operate as independent contractors or employees.

(c) PEDICAB DRIVER — A person who operates a pedicab.

(d) OPERATING PERMIT — A written permit issued by the City authorizing a person to operate a pedicab.

Sec. 34-39. Prohibition on operation of pedicab. [Ord. No. 1562, 3-23-2011]

No person shall drive or operate a pedicab upon the streets, highways, or thoroughfares of the City of Holland and no person who owns or controls a pedicab shall permit it to be so driven or operated unless the pedicab is in compliance with all of the requirements of this article.

Sec. 34-40. Application for operating permit. [Ord. No. 1562, 3-23-2011]

(a) The City Clerk shall issue operating permits for pedicabs. Every person desiring to obtain an operating permit is required to make written application for a permit to the City Clerk and accompanied by a fee established by resolution of the City Council. The applicant shall truthfully and fully state the information requested on the application such as:

(1) The applicant's full name and residence address;

(2) The applicant's date of birth;

(3) The applicant's drivers license and number;

(4) The names and residence address of any shareholders, members, or partners of any entity applying for the operating permit;

(5) The name of the business;

(6) A certificate of insurance satisfying the requirements of Section 34-46;

(7) The proposed fare to be charged per ride;

(8) A list of each authorized pedicab driver, including name, address, the length of time such driver has been a resident of Michigan, date of birth, and certification that the driver has completed the required training program established in this article;

(9) If a proposed pedicab driver does not have a valid current Michigan driver's license, the applicant shall provide a background check (showing traffic citations as well as criminal history) for such driver and the background check shall be current within 30 days of the filing of the application;

(10) A description of the pedicab, including trade name, if any, serial number and body style; and

(11) Such other material as the City Clerk may require.

(b) If the applicant is a corporation, limited liability company, copartnership, or other such business entity, the person who will act as the principal in charge of the business to be licensed shall sign the application and all of the owners of the business entity shall meet all of the requirements for individual applicants.

Sec. 34-41. Review of application. [Ord. No. 1562, 3-23-2011]

(a) Upon the filing of the application for an operating permit, the City Clerk shall review and evaluate the application. In determining whether a permit should be issued, the City Clerk shall evaluate whether the application and the applicant meet all of the following:

(1) Whether the proposed activities comply with all of the provisions of this article and the code;

(2) Whether the proposed activities involve the safe use of the streets by the public for vehicles and pedestrians;

(3) Whether the applicant has not previously violated two or more provisions of this article or the code.

(b) The Department of Public Safety shall review the application to determine if it satisfies the requirements in this article.

(c) If the permit is not approved, the applicant may file an appeal as provided in Section 34-48.

(d) The City Clerk shall approve, deny, or approve with conditions an application which is complete for an operating permit within 30 days of it being filed.

Sec. 34-42. Validity of operating permit. [Ord. No. 1562, 3-23-2011]

(a) Operating permits shall be valid for a period of one year from the date of issuance.

(b) Operating permits shall become invalid immediately if the operating permit is defaced, altered, forged or counterfeited.

Sec. 34-43. Pedicab operating permit and decal fee. [Ord. No. 1562, 3-23-2011]

The City shall charge a nonrefundable fee to recover the cost of activities associated with the administration, regulation, and issuance of decals and operating permits. The fee shall be determined annually by resolution of the City Council.

Sec. 34-44. Pedicab identification number and decal. [Ord. No. 1562, 3-23-2011]

(a) It is unlawful for any owner to lease, rent, or allow a pedicab to be operated for hire without first having obtained a decal issued by the City. The decal shall be affixed in a manner prescribed by the City. Each pedicab shall have a unique, nontransferable vehicle identification number, at least four inches in height, visible on both sides of the vehicle.

(b) Before allowing a pedicab to be operated for hire, owners shall have a decal and identification number.

(c) The decal form shall be prescribed by the City.

Sec. 34-45. Operating regulations. [Ord. No. 1562, 3-23-2011]

(a) Pedicabs are only permitted to be driven or operated in the City of Holland on streets, highways or thoroughfares described on a map that is approved by the City Council.

(b) If a pedicab owner desires that a person drive a pedicab and such person was not listed in the application described above, the owner will submit the information provided for in Section 34-40(a)(8) to the City Clerk. The City Clerk shall review the information as provided previously and approve or deny such request.

(c) No person under the age of 18 shall operate a pedicab.

(d) No person shall drive or operate a pedicab unless that person has a current valid driver's license.

(e) No person shall operate, or cause to be operated, a pedicab in an unsafe condition.

(f) All pedicab drivers are subject to all applicable traffic safety laws, rules, and regulations of the City of Holland and the State of Michigan.

(g) All pedicab drivers shall wear respectable attire and a shirt that includes the name of the pedicab owner.

(h) Pedicabs are not permitted to park on streets, highways or thoroughfares except as follows:

(1) The Public Safety Director or its designee may designate a portion of streets, highways or thoroughfares as "pedicab stand," for the parking of pedicabs. The Mainstreet Downtown Development Authority or the Principal Shopping District may designate pedicab stands for the 8th Street to Kollen Park Drive areas.

(2) A single pedicab may park temporarily at the curb or on a sidewalk only as long as necessary for passengers to board and exit the vehicle.

(3) In all cases, pedicabs shall be parked in a location that does not impede pedestrian or vehicular traffic.

(i) Fares must be established and provided with application and if rates are changed they must be reported to the City Clerk's office.

(j) No person shall use or allow any pedicab to be used for any illegal purpose. No person shall use or permit or allow any pedicab to be used in, or to aid or abet, any illegal act.

(k) No person shall operate or knowingly permit any other person to operate any pedicab under the influence of intoxicating liquor, any controlled, exhilarating or stupefying substance or of any combination of substances mentioned herein.

(l) No person shall operate a pedicab when the number of passengers exceeds the number of available seats. No person shall operate a pedicab unless all passengers are seated in a seat designed for that purpose and using the seatbelt provided for in the seat.

(m) Each pedicab owner shall adopt and operate a system for the collection, storage and return of personal property left in a pedicab.

Sec. 34-46. Vehicle regulations. [Ord. No. 1562, 3-23-2011]

(a) All pedicab owners must have each pedicab vehicle inspected by the Department of Public Safety prior to operation. All pedicab vehicles must be constructed for and have the structural integrity to support pedicab operations. Each pedicab vehicle must be equipped with the following:

(1) Front and rear turn signals;

(2) Headlights;

(3) Taillights;

(4) Rearview mirror;

(5) A bell or horn;

(6) Seatbelts for passengers;

(7) Reflectors placed on each wheel and at each corner of the body of the pedicab;

(8) A proper braking system; and

(9) Any other equipment required to comply with all applicable federal and state laws.

(10) A pedicab must not have any cracks, broken or missing parts, or other visible damage. All wheels must be firmly attached to the hub of a vehicle and all springs, axles, and supporting structures of each pedicab vehicle must be intact.

(b) Each pedicab driver at all times shall keep each pedicab vehicle clean and free of refuse and in safe operating condition. Prior to the operation of any pedicab and at the beginning of each shift or each day of operation, the pedicab driver shall thoroughly inspect the pedicab for safe operating conditions and shall maintain records of such inspection if required by the City. For any condition found then or at any other time that will prevent the safe operation of the pedicab, the pedicab driver shall immediately remove the pedicab from service and correct the condition before the pedicab is in operating service.

(c) Each pedicab shall have a unique, nontransferable vehicle identification number at least four inches in height visible on both sides of the vehicle.

(d) Each pedicab owner shall prepare a training program for pedicab drivers covering, at a minimum, the safe operation of pedicab vehicles, customer service policies, and the requirements of this chapter.

(e) Each pedicab owner shall maintain at all times a policy of liability insurance in the minimum amount of $1,000,000 for personal injuries, and property damage. The policy shall directly protect the City of Holland, its officials, officers, members, volunteers, sponsors, directors, employees, and agents as additional named insureds, and shall provide that the insurance be primary insurance and that no other insurance purchased by the City will be called on to contribute to a loss covered by said policy. The policy shall further provide 10 days' notice of cancellation or material change to the City's designated agent. Evidence of insurance coverage is required before any permit is issued. Prior approval of the City of Holland is required. Each owner and pedicab driver shall further agree to hold the City harmless for any liability or claim arising out of his or her operation that is not covered by the required insurance.

(f) If a pedicab vehicle is involved in an accident or collision, the pedicab driver shall immediately notify the pedicab owner and the Department of Public Safety and remain at the scene until the police investigate the accident or collision. The pedicab owner shall submit a full written report on the condition of the pedicab vehicle to the Department of Public Safety within 72 hours after the occurrence. Before operating the pedicab vehicle again, the pedicab owner shall have the vehicle reinspected by the Department of Public Safety for safety.

(g) Each pedicab owner must file a business information card with the Department of Public Safety prior to operation.

(h) All pedicab drivers must display an identification badge. Each identification badge must contain the following information:

(1) Name; and

(2) Photograph.

Sec. 34-47. Grounds for suspension or revocation of operating permit or decal. [Ord. No. 1562, 3-23-2011]

(a) Operating permits or decals may be denied, suspended or revoked by the City based upon any of the following grounds:

(1) The pedicab owner or a pedicab driver fails or has failed to comply with any provisions of this chapter.

(2) A pedicab driver has been convicted of any felony; any misdemeanor or felony reckless driving or driving under the influence offense; or any crime reasonably related to the qualifications, functions, or duties of the passenger transport business or the ability of the pedicab driver to safely transport passengers; unless five years has elapsed from the successful completion of the sentence for any such conviction.

(3) A pedicab driver has been convicted of a crime that requires registration under the Michigan Penal Code as a sex offender.

(4) A pedicab driver or the pedicab owner has knowingly made a false statement of material fact, or knowingly failed to state a material fact in the application process for the operating permit or decal.

(5) A pedicab driver's ability to drive lawfully in Michigan or in any other state is currently expired, suspended or revoked.

(6) A pedicab driver has engaged in activity that, in the judgment of the City Clerk, constitutes a serious threat to public health, safety, or welfare. Such threat may be indicated by, but is not limited to:

(i) An arrest for driving under the influence of alcohol or a controlled substance while operating a pedicab;

(ii) An arrest for a crime that, if convicted, would require registration as a sex offender, and where a pedicab was used in the planning of, perpetration of, or fleeing from the offense;

(iii) A report from a law enforcement agency that the pedicab or pedicab driver was involved in a vehicle accident involving a pedicab, where the pedicab passengers were injured.

Sec. 34-48. Notification of suspension or revocation of operating permit; appeals. [Ord. No. 1562, 3-23-2011]

(a) Any operating permit issued by the City may be suspended or revoked by the issuing officer for cause as herein defined. In either case, a hearing shall be scheduled to be held by the City Manager or the City Manager's designee. Depending upon the necessity for prompt action, the hearing shall be held in accordance with one of the following provisions:

(1) If there is no immediate threat to the public health, safety or welfare, the hearing shall be held to determine whether the operating permit should be suspended or

revoked. The holder of the operating permit shall be notified of the time, date and place of the hearing and shall be notified of the reason or reasons for the proposed suspension or revocation. The operating permit holder shall be entitled to be represented by counsel, to submit evidence, to cross-examine testifying witnesses, and to make arguments concerning the factual and legal issues. The hearing officer or body shall render a written decision stating the reasons for the decision.

(2) If there is an immediate threat to the public health, safety or welfare, the operating permit may be suspended prior to the hearing. If an operating permit is suspended prior to the hearing, the hearing shall be commenced as soon as it is practical, but in no case more than 10 days after the suspension. The hearing shall be held to determine whether to terminate or extend the suspension or whether the suspension should be converted into a revocation of the operating permit. The holder of the operating permit shall be notified of the time, date, and place of the hearing and shall be notified of the reason or reasons for the already-imposed suspension and for any contemplated future action. The operating permit holder shall be entitled to be represented by counsel, to submit evidence, to cross-examine testifying witnesses, and to make arguments on factual and legal issues. The hearing officer or body shall render a written decision stating the reasons for the decision.

(b) In any hearing held pursuant to the provisions of this article, the rules of evidence shall be followed as far as practicable, but a hearing officer or body may admit and give probative effect to evidence of a type commonly relied upon by reasonably prudent people in the conduct of their affairs. Irrelevant, immaterial or unduly repetitious evidence may be excluded. Notice may be taken of facts within the general knowledge of the community.

(c) Any person seeking to appeal the decision of the City Manager or other appropriate hearing officer or body may appeal to the City Council, provided that a written request for such an appeal shall be filed within seven days of the date of the decision to be appealed. The City Council shall schedule a hearing on the appeal within 14 days of the receipt of the request for appeal by the City Clerk. The hearing shall be scheduled and held before the entire City Council, as the City Council shall determine. The factual record made in the hearing below shall constitute the basic record for the appeal. The City Council may, but need not, allow the presentation of additional evidence by a majority vote. Argument as to relevant factual and legal issues shall be permitted. The decision of the City Council shall be by majority vote. The Council may affirm, reverse or modify any action taken relative to a license. The decision of the City Council shall be final.

Sec. 34-49. Preliminary breath test. [Ord. No. 1562, 3-23-2011]

A Public Safety Department officer who has reasonable cause to believe that a person is or was operating a pedicab upon a public highway or other place open to the public or generally accessible to a pedicab, including an area designated for the parking of vehicles, and that the person by the consumption of alcoholic liquor may have affected his or her ability to operate a pedicab may require the person to submit to a preliminary chemical breath analysis. A

pedicab driver's refusal to take or failure to properly take a preliminary chemical breath analysis as required by this section is a violation of this Code.

Sec. 34-50. Violation is a civil infraction. [Ord. No. 1562, 3-23-2011]

Any violation of this article shall be a municipal civil infraction as provided for in Chapter 2 of this Code.

Sec. 34-51. Effective date/emergency ordinance. [Ord. No. 1562, 3-23-2011]

This article was adopted as an emergency ordinance by the City Council of the City of Holland pursuant to Section 5.4 of the Holland City Charter, and shall be effective upon the date of adoption.

Chapter 35

TRAILERS AND TRAILER PARKS

Sec. 35-1. "Trailer coach" defined.

Sec. 35-2. Prohibited parking and use of trailers, parking overnight on street, etc.

Sec. 35-3. Parking between setback line and curb.

Sec. 35-4. Parking or occupancy outside trailer park.

Sec. 35-5. Parking occupied trailer in residence district.

Sec. 35-6. Limitations on parking on dwelling premises, etc.

Sec. 35-7. Permits generally.

Sec. 35-8. Removal of wheels or tires; occupancy limit.

Sec. 35-9. Sanitary facilities.

Sec. 35-10. Right of entry of enforcing officer and police; inspections.

Sec. 35-1. "Trailer coach" defined. [Code 1955, § 4-8.1]

The term "trailer coach," as used in this chapter, shall mean any vehicle used, or so constructed as to permit its being used, as a dwelling or sleeping place, which is or may be mounted on wheels, and is or may be propelled either by its own power or by another vehicle to which it may be attached.

Sec. 35-2. Prohibited parking and use of trailers, parking overnight on street, etc. [Code 1955, § 4-8.2]

No person shall park or cause to be parked any trailer coach overnight on any street, alley, highway or other public place.

Sec. 35-3. Parking between setback line and curb. [Code 1955, § 4-8.2]

No trailer coach shall at any time be parked between the established setback line and the curbline of any lot.

Sec. 35-4. Parking or occupancy outside trailer park. [Code 1955, § 4-8.2]

No person shall park or permit the parking of any occupied trailer coach or use or occupy or permit the use or occupancy of any trailer coach on any site, lot, field or tract of land not specifically licensed as a trailer coach park, except as provided in this code.

Sec. 35-5. Parking occupied trailer in residence district. [Code 1955, § 4-8.2]

No person shall park or cause or permit to be parked any occupied trailer in any residence district, for more than three weeks in any twelve-month period unless the same be housed within a building.

Sec. 35-6. Limitations on parking on dwelling premises, etc. [Code 1955, § 4-8.3]

Not more than one trailer coach may be parked, used or occupied on the premises of any dwelling or on any premises adjacent to a dwelling; provided, that no trailer coach shall be used or occupied on any such premises unless the occupants of the trailer coach have free access to and the unlimited use of the sanitary facilities of such dwelling and the operator of such trailer coach secures a permit as provided in this chapter.

Sec. 35-7. Permits generally. [Code 1955, § 4-8.4; Ord. No. 1069, 10-7-1992]

Application for a permit to use or occupy a trailer coach on the premises of a dwelling or of any vacant lot adjacent thereto shall be made to the City Clerk and shall state the address of the dwelling, the name of the owner or occupant in control thereof, the name and address of the owner or operator and license number of such trailer coach. The consent in writing of the owner or occupant in control of the dwelling on or adjacent to the premises where such parking is to take place, to the use of the sanitary facilities of such dwelling as provided by this chapter shall accompany the application or be endorsed thereon.

Upon the filing of such application the City Clerk shall cause an inspection to be made of such dwelling premises and trailer coach and if he or she finds that adequate sanitary facilities are available and that the use or occupancy of such trailer coach complies with the statutes of the state and the provisions of this code, he or she shall approve such application and, upon payment of the fee as established by a resolution adopted by City Council, the City Clerk shall issue a permit, which permit shall limit the time of such use or occupancy to a period not longer than one week from the date of the application therefor, or, with the approval of the enforcing officer, to a period not exceeding three weeks.

No person shall be issued a permit under the provisions of this chapter for the use or occupancy of a trailer coach for more than three weeks in any twelve-month period. Every permit shall be displayed in or on the trailer coach for which it is issued on the side nearest to a public street in such manner as to be readily noticeable at all times.

Sec. 35-8. Removal of wheels or tires; occupancy limit. [Code 1955, § 4-8.5]

No person shall remove or cause to be removed the wheels or tires from any occupied trailer coach except for the purpose of repair, nor shall any person elevate, block or stabilize any occupied trailer coach other than with jacks designed, provided and intended for that purpose. No parked trailer coach shall be occupied for sleeping purposes by a greater number of persons than such vehicle is designed and arranged to accommodate.

Sec. 35-9. Sanitary facilities. [Code 1955, § 4-8.6]

The occupants of all trailer coaches parked on private premises shall use the sanitary facilities of the adjacent premises, exclusively, and shall not use any other sanitary facilities.

Sec. 35-10. Right of entry of enforcing officer and police; inspections. [Code 1955, § 4-8.7]

The enforcing officer or any member of the Police Department of the City shall have the authority to enter and inspect at any reasonable time any premises upon which a trailer coach is parked, used or occupied for the purpose of ascertaining that the owner, operator or occupant thereof is complying with all statutes, ordinances and rules and regulations governing the same.

Chapter 36

TREES AND SHRUBS

Sec. 36-1. Planting by City personnel only.

Sec. 36-2. Minimum height of branches over sidewalks; removal of dead branches, etc.

Sec. 36-3. Permit and precautions required for removal, trimming, etc., trees.

Sec. 36-4. Climbing, etc., trees while wearing spurs.

Sec. 36-5. Protection of trees during erection, repair, etc., of buildings.

Sec. 36-6. Connecting, etc., wires to trees.

Sec. 36-7. Attaching signs, posters, etc., to trees.

Sec. 36-1. Planting by City personnel only. [Code 1955, § 5-1.15]

No person other than designated City personnel shall plant any shade or ornamental tree, plant or shrub in any public highway or park.

Sec. 36-2. Minimum height of branches over sidewalks; removal of dead branches, etc. [Code 1955, § 5-1.15.]

No person shall maintain upon any lot of which he or she is the owner, either individually or as one of two or more tenants in common, joint tenants or tenants by the entireties, any tree which is so located as to extend its branches over a public alley or highway, unless the same shall be kept so trimmed that there shall be a clear height of not less than 12 feet above that portion of the surface of sidewalks, unobstructed by branches; and no such person shall fail to remove all dead branches or stubs on such trees which are, or may become, a menace to persons on the street.

Sec. 36-3. Permit and precautions required for removal, trimming, etc., trees. [Code 1955, § 5-1.15; amended 1-17-2018 by Ord. No. 1723]

No person shall remove, destroy, break, cut, deface or trim any tree growing in any highway or park in the City without first obtaining a permit from the Director of Parks and Recreation, which permit shall state the work to be done under it and the time within which it is to be done; and no person shall remove, destroy or trim any such tree under any permit unless proper precautions, approved by the Parks and Recreation Director, are taken to insure the safety of the public while such tree is being removed, destroyed or trimmed.

Sec. 36-4. Climbing, etc., trees while wearing spurs. [Code 1955, § 5-1.15]

No person shall climb any tree growing in any highway or park in the City, or walk upon the branches thereof, while wearing spurs, unless such person is in the act of removing such trees.

Sec. 36-5. Protection of trees during erection, repair, etc., of buildings. [Code 1955, § 5-1.15]

In the erection, alteration, repair or removal of any building or structure, the owner thereof shall place, or cause to be placed, such guards around all nearby trees on the public highway as will effectually prevent injury to such trees.

Sec. 36-6. Connecting, etc., wires to trees. [Code 1955, § 5-1.15]

No person shall attach or connect any electric or other wire to any tree in a highway or park in the City, or permit any such wire to come in contact with any such tree.

Sec. 36-7. Attaching signs, posters, etc., to trees. [Code 1955, § 5-1.15]

No person shall attach any sign, placard or poster to any tree growing in any highway or park.

Chapter 37

WATER

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ARTICLE I
In General

Sec. 37-1. Definitions. [Ord. No. 457]

For the purposes of this chapter, the following words and phrases shall, except as otherwise expressly provided, have the meanings respectively ascribed to them by this section:

APPROVED BASEMENT — Any basement with walls and floor constructed of concrete or equivalent, reasonably watertight, properly drained, and in ordinary daily use.

DWELLING — Any house, building, structure, tent shelter, trailer (other than those in licensed trailer coach parks) or vehicle or portion thereof (except railroad cars on tracks or rights-of-way) which is occupied in whole or in any part as a home, residence or living or sleeping place for one or more human beings.

ENFORCING OFFICER — The Director of the Department of Community and Neighborhood Services or his or her authorized representative.

HABITABLE BUILDING — Any structure where persons reside, are employed or congregate.

PNEUMATIC STORAGE TANKS — Closed water storage containers constructed so as to operate under normal water system pressures.

PREMISE — Any tract of land containing a habitable building.

PUMP — Any manufactured device designed to either raise the ground water from the well, or to discharge the water through a distribution system, or both.

PUMP ROOM or WELL ROOM — Any enclosed structure, either above or below grade, that houses the pump, top of the well, any suction line, or any combination thereof.

SEWAGE — The liquid wastes from all habitable buildings and such term shall include, but not be limited to, human excreta and wastes from sink, lavatory, bathtub, shower and laundry, and any other water-carried wastes of an organic nature, either singly or in any combination thereof.

SEWER — Any pipe or conduit which carries sewage, or into which sewage may back up.

SPRING — Any uncased flow of water discharging naturally from the ground.

SUCTION LINE — Any closed conduit carrying, or intended to carry, water to the inlet side of a pump.

WELL — A pipe or conduit installed in the ground for the purposes of providing a method of collection of ground water.

WELL SEAL — A device or method used to protect a well casing or water system from the entrance of any external contaminant at the point of entrance into the casing of any one or more pipes, electric conduits or water level measuring equipment necessary to the proper functioning of the water system.

Sec. 37-2. Applicability of chapter. [Ord. No. 457]

This chapter shall apply but not be limited in application to such water systems as are used to supply private dwellings, schools, trailer coach parks, motels, resorts, hospitals, convalescent homes, homes for the aged, eating and drinking establishments, places of public assembly and the like.

This chapter shall not apply to water systems:

(a) Used exclusively for purposes not requiring a quality of water substantially equivalent to that of water to be used for human consumption.

(b) Providing, or intended to provide, water service to properties generally without respect to the ownership thereof.

Sec. 37-3. Permit, etc., required for private systems. [Ord. No. 457; Ord. No. 1069, 10-7-1992]

No water supply system, other than municipal, shall hereafter be constructed, reconstructed or replaced without first paying the permit fee as established by a resolution adopted by City Council and securing a written permit and approval of plans and specifications from the enforcing officer.

Sec. 37-4. Notice of construction, etc.; design and construction generally. [Ord. No. 457[1]]

After the adoption of the ordinance from which this chapter derives, every owner or person engaged for the construction or installation of any water supply (other than municipal) shall give written notice to the Department of Community and Neighborhood Services, before construction is started, of the location or address of the proposed construction and the type of system to be installed. A permit for the construction shall be required, and the system shall be designed and constructed to meet the specifications and performance requirements of this chapter.

Sec. 37-5. Installation by homeowner. [Ord. No. 457; Ord. No. 613]

(a) Nothing in this chapter shall be construed to prohibit a property owner from installing a water supply system or well in his or her own property; provided, that it meets the location and performance requirements of this chapter.

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1. Editor's Note: This ordinance took effect 5-25-1960.

(b) No person shall refuse to permit the enforcing officer or any authorized representative of the City from installing or placing upon such water supply system or well a meter or other measuring device to record water consumption from such supply system or well for purposes of determining charges for sewer services furnished by the City to or with respect to the property upon which such supply system or well is located.

(c) The City shall be entitled to recover from such property owner a fee to be determined by the Board of Public Works for installing or placing such meter or device on such supply system or well. If such reimbursement is not paid within 60 days after demand therefor has been made by the City, the amount demanded shall be deemed to be a lien on the property for sewer service furnished to the property.

Sec. 37-5.1. Reconstruction of water main; new service; lien for charges. [Ord. No. 946, 6-1-1988]

(a) In the event the City repairs, restores, or reconstructs a water main and the City determines that the water supply system of the property owner is defective, violates the provisions of this chapter, or is otherwise functionally inoperable or incompatible with the newly installed water main, the property owner shall be responsible to install a new water service to the public main. All costs incurred for the new water service connection shall be paid by the property owner.

(b) The City shall be permitted to construct the new water service and enter on private property for such installation if a property owner fails to construct a new water service pursuant to Subparagraph (a) hereof. The City shall recover from the property owner a fee determined by the Board of Public Works for installing such service or device. If reimbursement is not paid within 60 days after demand has been made by the City, the amount demanded shall be deemed a lien on the property for water service furnished to the property and shall be subject to foreclosure and enforcement in accordance with the statutes of this state.

Sec. 37-6. Inspections and sampling. [Ord. No. 457]

All premises affected by this chapter shall be subject to inspection by the enforcing officer, and the enforcing officer may collect such samples for laboratory examination as he or she deems necessary for the enforcement of this chapter.

Sec. 37-7. Right of entry of enforcing officer; molesting or resisting enforcing officer. [Ord. No. 457]

No person shall refuse to permit the enforcing officer to inspect any premises nor shall any person molest or resist the enforcing officer in the discharge of his or her duty and the protection of the public health.

Sec. 37-8. Interference with notices. [Ord. No. 457]

No person shall remove, mutilate or conceal any notice or placard posted by the enforcing officer except by permission of the enforcing officer.

Sec. 37-9. Location of wells, etc. [Ord. No. 457]

(a) All wells shall be located at least 75 feet from any source of possible contamination such as sink drains, seepage pits, cesspools, outhouses, septic tanks, disposal fields and any sewage or liquid wastes draining into the soil; except, that for private dwellings, the distance shall be at least 50 feet from any course of possible contamination.

(b) All wells shall be located at least 10 feet from any buried sewer or sump pit carrying sewage. Such buried sewers within the isolation distances as specified above shall be constructed of service weight, or heavier, cast iron soil pipe or cast iron water pipe with watertight joints, or other material and joints given written approval by the State Health Commissioner. Such sump pits shall be watertight and constructed of cast iron or other material given written approval by the enforcing officer.

(c) The enforcing officer responsible for the enforcement of this chapter may make modification of the required isolation distance in certain instances. Such modifications shall be made in writing to the owner, either increasing or decreasing the minimum isolation distance, and shall state for each case the reason for such exception based on the type of soil, maximum pumping rate or other factors affecting the movement of contamination.

(d) Water suction lines of the type approved under Section 37-12 shall be located at least five feet laterally from any buried sewer, drain or conduit carrying sewage or through which sewage may back up, or other possible sources of contamination listed above. Suction lines fully exposed above grade or in approved basements, as defined in this chapter, may be located within the five-foot area. No water pump may be located directly below any sewer.

(e) Wells shall not be located in areas subject to flooding unless protected as prescribed in writing by the enforcing officer. The ground surface immediately adjacent to all well casings shall be graded so that surface water is diverted away from the casing.

Sec. 37-10. Well casings generally. [Ord. No. 457[2]]

(a) All drilled and driven well casings shall be of at least standard weight steel or iron pipe casing, watertight throughout its length, with threaded or welded joints or other types of joints given written approval by the enforcing officer after adoption of this regulation. Well casings shall extend at least 12 inches above the finished grade and at least six inches above the platform or floor. For below grade installations, all well casings shall extend at least 12 inches above the floor of any approved basement, pump or well room. All drilled and driven well casings shall extend to a depth of at least 25 feet below finished grade, except as provided in Section 37-11. Standards for casings and pipe threads shall be equal to those adopted by the American Standards Association.

(b) When the well is drilled into rock, the casing shall be bedded in solid rock making a watertight joint.

(c) Dug wells shall not be permitted without written approval of the enforcing officer. Such approval shall cover the details of construction to be used.

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2. Editor's Note: This ordinance took effect 5-25-1960.

Sec. 37-11. Well depth. [Ord. No. 457]

No wells less than 25 feet in depth shall be used without written approval of the enforcing officer. If wells greater than 25 feet in depth are not available, the enforcing officer may, at his or her discretion, approve of the use of wells of lesser depth; provided, that adequate protection can be afforded by means of a layer of impervious soil, or by so locating the well screen as to keep the water level in the well at least two feet above the top of the screen while the pump is in operation.

Sec. 37-12. Water suction lines, etc. [Ord. No. 457]

(a) All water suction lines shall be constructed of the same material as the well casing, copper or other material approved in writing by the enforcing officer prior to such construction.

(b) No water suction line outside the well casing may be used unless protected by one or more of the following methods:

(1) Fully exposed in an approved basement and at least 12 inches above the basement floor.

(2) Fully exposed above grade.

(3) Surrounded by an air space in a conduit open at both ends which has positive drainage by gravity to the ground surface or to an approved basement.

(4) Lying within an outer casing with the annular space filled with water from the system and maintained at system pressure.

(5) Unexposed, but at least 12 inches above the surrounding ground surface and protected against flooding.

(c) The discharge line between the well casing and the check valve shall be protected the same as suction lines in all installations, including deep well, turbine and submersible pumps.

Sec. 37-13. Well casing seals and connections. [Ord. No. 457]

(a) All connections into the top or side of a well casing that are above grade, or in an approved basement, shall be constructed so as to exclude water, dirt or other foreign matter, by such of the following methods as may be applicable:

(1) An approved threaded connection.

(2) Welded connection.

(3) Lead, asphalt or rubber expansion sealer.

(4) Bolted flanges with rubber gaskets.

(5) A casing that extends at least one inch into the base of a power pump mounted on a concrete pedestal and at least 12 inches above the floor of an approved basement or pump room.

(b) All below grade connections, except for those in approved basements, shall be protected by approved metal-to-metal threaded or welded joints.

(c) Electric power cables to submersible pumps, water level measuring devices and all other devices shall enter the well casing through watertight connections.

(d) Any other method of connection to a well casing shall be specifically approved in writing by the enforcing officer before installation.

Sec. 37-14. Pump or well rooms. [Ord. No. 457]

Rooms housing pumping equipment or the top of the well casing shall be above grade unless special permission is granted in writing by the enforcing officer for below grade installation. Such special permission may be granted for below grade installation only if the containing room is located in, or attached to, an approved basement, or is of watertight construction and drained by gravity to the ground surface within 100 yards.

Sec. 37-15. Pumps generally. [Ord. No. 457]

(a) All pumps shall be so constructed that no unprotected opening into the interior of the pump or well casing exists.

(b) A hand pump shall have a closed spout, directed downward, and a pump rod that operates through a stuffing box.

(c) Power pumps shall be attached to the casing or approved suction or discharge line by a watertight connection, including flange connections, hose clamp type connections or other flexible couplings, or shall have a base plate meeting the requirements of Paragraph (5) of Subsection (a) of Section 37-13.

(d) Pumps shall be designed, installed and maintained so that priming is not required for ordinary use.

Sec. 37-16. Vents. [Ord. No. 457]

All casing vents shall be of standard gauge pipe, terminating at least 12 inches above the floor of the pump room or approved basement, screened, and pointing downward. They shall be so constructed that water will not reenter the well or water system.

Sec. 37-17. Platforms, pump room floors, approved basement floors or slabs. [Ord. No. 457]

The well shall be protected by a durable, watertight concrete (or equal) slab, platform or floor, at least six inches thick, extending horizontally at least two feet in every direction from the well casing, and sloped to divert water away from the casing. A watertight seal shall be

provided between the casing and the platform, pump room or approved basement floor or slab.

Sec. 37-18. General provisions and requirements. [Ord. No. 457]

(a) Use of springs, lakes or streams; installation of water treatment facilities. In special cases, permission may be granted by the enforcing officer, following consultation with the State Health Commissioner, to use springs, lakes or streams as a source of water supply, or to install water treatment facilities. Plans and specifications for such facilities, together with the operating procedures, shall be submitted through the enforcing officer to the State Health Commissioner for approval.

(b) Return of water used for air conditioning, etc. Water used for cooling parts of engines, air compressors or other equipment or water used for air conditioning shall not be returned to any part of the water system.

(c) Pneumatic storage tanks not to be buried, etc. Pneumatic storage tanks shall not be buried in the ground unless the tank projects horizontally above the ground, or into an approved basement, or into a room or pit drained by gravity to the ground surface; provided, however, that pneumatic storage tanks of a type approved by the enforcing officer may be used in private dwelling systems.

(d) Cross-connections.[3] There shall be no physical connection between a water supply meeting the requirement of this chapter and any other water supply which does not meet the requirements of this chapter. Connections between approved supplies may be permitted only upon written approval of the enforcing officer.

(e) Filling abandoned wells. When a well is abandoned, it shall be filled, in accordance with instructions from the enforcing officer, in such a manner as to protect the water bearing formation against contamination, and also to prevent the vertical movement of water between formations.

(f) Faucet for sampling. In all pressure water systems, provision shall be made for collecting water samples by installing a faucet near the discharge side of the pump.

(g) Flushing, disinfecting, etc., new, etc., systems. Every new, repaired or reconditioned well or pump shall be thoroughly pumped to waste until the water is clear. Thereafter, the well, pumping equipment and water distribution shall be disinfected with a solution having a concentration of at least 50 parts per million of chlorine. After a contact period of 12 hours, the chlorine solution shall be thoroughly flushed out. Prior to placing the supply in service, at least two consecutive representative water samples, collected at least 12 hours apart, shall show the absence of organisms of the coliform group.

(h) Storage reservoirs. Storage reservoirs shall be constructed of impervious material and be watertight. All openings into the reservoir shall be constructed so as to prevent the entrance of contamination, such as from birds, insects, animals, surface water and other foreign matter. Open top reservoirs will not be approved. Overflow pipes and drains

3. Editor's Note: See also Art. II, Cross-Connections, of this chapter.

from reservoirs shall not be directly connected to any sewer. If reservoirs are used, plans shall be submitted to the enforcing officer for approval.

(i) Contaminated water supplies to be posted, etc. Contaminated water supplies and those which, in the judgment of the enforcing officer, represent an immediate health hazard shall be posted with suitable signs at each outlet, or the outlets shall be made inoperative.

(j) Protection against contamination of system. The water distribution system between the pump and all outlets shall be designed, maintained and operated in such a manner as to protect the water from becoming contaminated.

(k) Drinking fountains. When drinking fountains are provided, they shall be of the angle jet type with the nozzle at least one inch above the rim of the bowl.

Sec. 37-19. Compliance with chapter. [Ord. No. 457]

Every water supply system, other than municipal, which is hereafter constructed, reconstructed or replaced within the City shall comply with the requirements of this chapter.

Sec. 37-20. Violations and penalty. [Ord. No. 457]

Any person who shall violate or fail to comply with any provision of this chapter shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be punished by a fine not to exceed the sum of $500, or by imprisonment not to exceed 90 days, or by both such fine and imprisonment, in the discretion of the court, and such violations shall be subject to the nuisance proceedings referred to in Section 1-10, where applicable.

ARTICLE II
Cross-Connections

Sec. 37-21. Definitions. [Ord. No. 663, § 1; amended 4-19-2017 by Ord. No. 1688]

For the purpose of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

BACKFLOW — Water of questionable quality, wastes or other contaminants entering a public water supply system due to a reversal of flow.

CROSS-CONNECTIONS — A connection or arrangement of piping or appurtenances through which a backflow could occur.

SAFE AIR GAP — The minimum distance of a water inlet or opening above the maximum high water level or overflow rim in a fixture, device or container to which public water is furnished which shall be at least two times the inside diameter of the water inlet pipe; but shall not be less than one inch and need not be more than 12 inches.

SECONDARY WATER SUPPLY — A water supply system maintained in addition to a public water supply, including, but not limited to, water systems from ground or surface sources not meeting the requirements of Act No. 399 of the Public Acts of Michigan of 1976

(MCLA § 325.1001 et seq.), and Sections 3, 6, and 10 of Act No. 98 of the Public Acts of Michigan of 1913 (MCLA § 325.201 et seq.[4]), as amended, and Sections 9 and 427 of Act No. 380 of the Public Acts of Michigan of 1965 (MCLA § 16.101 et seq.), as amended, or water from a public water supply which in any way has been treated, processed or exposed to any possible contaminant or stored in other than an approved storage facility.

SUBMERGED INLET — A water pipe or extension thereto from a public water supply terminating in a tank, vessel, fixture or appliance which may contain water of questionable quality, waste or other contaminant and which is unprotected against backflow.

WATER UTILITY — The City of Holland, acting by and through its Holland Board of Public Works, Water Department.

Sec. 37-22. Compliance with existing laws. [Ord. No. 663, § 2; amended 4-19-2017 by Ord. No. 1688]

A connection with a public water supply system shall comply with the existing laws and rules, including Act No. 407 of the Public Acts of Michigan of 2016, as amended, and the provisions of this Code.

Sec. 37-23. Cross-connections prohibited. [Ord. No. 663, § 3; amended 4-19-2017 by Ord. No. 1688]

Cross-connections of the public water supply system or source, including, but not limited to, the following are prohibited:

(a) Between a public water supply system and a secondary water supply.

(b) By submerged inlet.

(c) Between a lawn sprinkling system and the public water supply system.

(d) Between a public water supply and piping which may contain sanitary waste or a chemical contaminant.

(e) Between a public water supply system and piping immersed in a tank or vessel which may contain a contaminant.

Sec. 37-24. Elimination of existing cross-connections. [Ord. No. 663, § 4; amended 4-19-2017 by Ord. No. 1688]

The expenses of eliminating cross-connections shall be paid and charged to the owner of the property on which such cross-connection exists; provided however, that any existing cross-connection which creates an immediate and substantial hazard to the public health of the community shall be corrected, upon notice to the property owner by the Water Utility, in such amount of time as determined necessary by the Water Utility. If the correction has not been made in such time as ordered, the Water Utility shall physically separate the public water supply from such piping system in such a manner that the two systems cannot again be

4. Editor's Note: MCLA § 325.201 et. seq. were repealed by P.A. 1994, No. 451, § 90101, effective March 30, 1995.

connected by any unauthorized person, and the Water Utility shall charge all fees, expenses, and charges (including administrative charges) to the owner of the property. The Water Utility shall be permitted to file a lien for such charges, if the amount is not paid by the property owner, as may be permitted by law.

Sec. 37-25. Local cross-connection control program. [Ord. No. 663, § 5; amended 4-19-2017 by Ord. No. 1688]

The Water Utility shall maintain a comprehensive control program for the elimination and prevention of all cross-connections meeting the approval of the Michigan Department of Environmental Quality (MDEQ).

Sec. 37-26. Correction and protective devices. [Ord. No. 663, § 6; amended 4-19-2017 by Ord. No. 1688]

Upon notification of a violation of this division, the owner of the property in question shall promptly correct such violations. Prior to using or installing any protective device or taking any proposed corrective action, users of City water shall first obtain written approval of the Water Utility. The total time allowed for completion of the necessary corrections shall be contingent upon the degree of hazard involved and include the time required to obtain and install equipment. If the cross-connection has not been removed within the time specified, the Water Utility may discontinue water service or may require correction pursuant to Section 37-24.

Sec. 37-27. Piping identification. [Ord. No. 663, § 7; amended 4-19-2017 by Ord. No. 1688]

When a secondary water service is used in addition to the Holland water supply, exposed Holland water and secondary water piping shall be identified by distinguishing colors or metal tags and so maintained that each pipe may be traced readily in its entirety. It will be necessary to protect the Holland water supply at the service connection in a manner acceptable to the Water Utility.

Sec. 37-28. Inspection and backflow device testing. [Ord. No. 663, § 8; amended 4-19-2017 by Ord. No. 1688]

The Water Utility or any representative thereof shall have the authority to inspect any premises to determine the presence of an existing cross-connection. All backflow devices shall be tested according to the requirements of Act No. 399 of the Public Acts of Michigan of 1976 (MCLA § 325.1001 et seq.). All new devices shall be tested upon installation prior to being placed into service. Testing shall be performed by an individual meeting the requirements of Act No. 399 of the Public Acts of Michigan of 1976 (MCLA § 325.1001 et seq.).

Sec. 37-28.1. Facility fire protection system upgrade requirement. [Added 4-19-2017 by Ord. No. 1688]

If a facility extends its current fire protection system, or makes other significant changes to existing fire protection system piping, the division, extension, or change may require the fire protection system to be upgraded up to the latest Michigan plumbing backflow protection standards. Any fire protection system which contains any additives will require to be protected by a reduced pressure zone assembly.

Sec. 37-29. Discontinuance of water service. [Ord. No. 663, § 9; amended 4-19-2017 by Ord. No. 1688]

In addition to the other remedies specified in this chapter, the Water Utility is hereby authorized to discontinue water service after reasonable notice to any person owning any property where a cross-connection in violation of this Code exists or for delinquent testing of a backflow device. The Water Utility may take such other precautionary measures as necessary to eliminate any danger of the contamination of the Holland water supply system. Water service to such property shall not be restored until such cross-connection has been eliminated.

ARTICLE II.1
Charges For Water

Sec. 37-29.1. Charges for water. [Ord. No. 1318, 10-3-2001; Ord. No. 1418, 6-15-2005; Ord. No. 1430, 11-2-2005]

The following charges and fees shall apply to all connections to the water system of the City of Holland:

(a) Lateral fee. If a lateral fee has not been paid or assessed against the premises to be served, a lateral fee, in an amount to be established and adjusted from time to time by a resolution of the City Council, for the installation and use of a water lateral line from the water line to the property line, shall be payable by each premises connecting to the system provided that no lateral fee shall be payable where the water lateral to be utilized was constructed as a part of the development or project in which private parties or the City on behalf of or at the expense of private parties have constructed the water lateral. The terms of the payment of the water lateral fee shall be established and adjusted from time to time by a resolution of the City Council. This resolution shall specify whether the lateral fee is payable in cash in full at the time application to connect is made or in installments. If the lateral fee is payable in installments, such resolution shall specify the number of installments, the amount of each installment, the date on which each installment is due and payable, the interest rate, if any, on the unpaid balance of the lateral fee, when interest begins, and the date on which interest on the unpaid balance is due and payable. If paid in installments, the unpaid balance of the lateral fee and all interest thereon shall constitute a lien on the premises served.

(b) Special assessment. The special assessment procedure as prescribed in Chapter 15 of the City Charter will be followed for the construction of water main improvements and assessment for water. A special assessment for water may be authorized by the City;

may be accepted upon petition of the property owners; or may be initiated by such other method as specified by City Charter or authorized by law. Following a public hearing and adoption of a resolution of necessity, the project may be authorized by the City Council to proceed. The special assessment placed on the premises shall include the frontage fee and the lateral fee. Notwithstanding the foregoing, the amount of the special assessment shall not exceed the cost of the public improvement as specified by Section 15.9 of the Holland City Charter. The special assessment shall be payable in full or in equal installments as authorized and specified in Chapter 15 of the City Charter. To the extent that an assessment for water does not exceed the cost of the public improvement as required by Chapter 15 of the Charter of the City of Holland, the water special assessment shall be established annually by resolution of the Board of Directors of the Holland Board of Public Works and approved by the City Council. The resolution shall specify whether the frontage charge is payable in cash in full at the time application to connect is made or in installments. If the frontage charge is payable in installments, such resolution shall specify the number of installments, the amount of each installment, the date on which each installment is due and payable, the interest rate, if any, on the unpaid balance of the frontage charge, when interest begins, and the date on which interest on the unpaid balance is due and payable. If paid in installments, the unpaid balance of the frontage charge and all interest and penalties thereon shall constitute a lien on the premises served.

(c) Trunkage charge:

(1) [Provisions regarding charge.] All premises which have not been included in a special assessment district which included a trunkage charge as a part of the assessment shall pay a trunkage charge. Those premises which have previously paid a trunkage charge as a part of a special assessment on a cash or installment basis as provided in this article but later are expanded and the use of the premises is altered so as to increase the amount and intensity of water use, shall pay an additional trunkage charge for such increase in water use. Those premises which were assessed for trunkage as an unimproved parcel but which are later improved or expanded resulting in an increase in water use shall pay a trunkage charge for such improvements. The trunkage unit rate shall be calculated based on general system extension costs, which may include, but are not limited to, such items as oversizing, extra depth, nonassessable frontage, lift station, force mains, pump stations, and other costs not included in the special assessment and frontage calculation. The trunkage unit rate shall be established and adjusted from time to time by a resolution adopted by the Holland Board of Public Works and approved by the City Council. The trunkage fee shall be based upon a residential equivalent unit ("REU factor") and applied against the meter size for the proposed or expanded use of the premises. An REU factor will be established for a single-family residential unit. All other types of uses will be calculated based on a schedule of unit factors based upon meter size and using the basic REU rate as the base cost. After initial adoption of the REU rates and factors, the REU rates will be adjusted annually based on the construction cost index as published by the Engineering News Record or such other nationally recognized publication recording costs and inflationary adjustments to costs. The trunkage unit rate shall be the rate in effect on the date the meter is installed to connect to the water system. If the premises are already connected to the water system, the trunkage

unit rate shall be the rate at the time the meter change is made for the expansion or alteration of use.

(2) Private development. Water trunkage fees will be the only fee required to be paid for building connections made within the proposed private development. The private party must pay in full all existing assessments and any other charges or assessments prior to water system extensions or connections. Costs incurred by the developer which are normally included in the trunkage fee calculation may be credited against the calculated fees in accordance with the resolution adopted by the Holland Board of Public Works and approved by the City Council.

(3) Single connections. For premises which have not been specially assessed or were not a part of a private development for which assessments, trunkage, and lateral fees have been charged, the cost of such connection will be determined based upon the rate formula established in the resolution adopted by the Holland Board of Public Works and approved by the City Council. Any premises which were previously charged under the alternate assessment procedure of the City shall be charged consistent with the terms and conditions of this article. Any previously charged and levied alternate assessments, including any ordinances or resolutions thereto, are hereby rescinded, revoked, and vacated and, in lieu thereof, all premises will be charged and assessed in accordance with this article. The City Council may choose to permit installment payments of an assessment under those conditions as specified in the resolution adopted by the Holland Board of Public Works and approved by the City Council. The owner of the premises to be served shall sign an agreement with the City stating the amount owed, the interest rate and other payment terms, and that the unpaid charges and all interest and penalties thereon shall constitute a lien on the premises served. If any installment of a lateral fee, frontage charge, trunkage charge, or any interest or penalty thereon is not paid in a timely manner, the City shall have the right to discontinue utility service to the premises and also, if the premises are connected to a public water supply, the right to turn off the water service to the premises. Water service and/or water service [sic] shall not be restored to the premises until all amounts then due and payable are paid in full.

(4) Installment payment of trunkage. The City Council may choose to permit installment payments of trunkage charges under those conditions as specified in a resolution adopted by the Holland Board of Public Works and approved by the City Council. This resolution shall specify whether the trunkage charge may be payable in cash in full when the obligation is incurred, or in installments. The resolution shall specify the number of installments, the amount of each installment, the date on which each installment is due and payable, the interest rate, if any, on the unpaid balance of the trunkage charge, when interest begins, the date on which interest on the unpaid balance is due and payable, and the amount of any administrative fee to be charged by the City for the installment payment agreement. If paid in installments, the unpaid balance of the trunkage charge and all interest and penalties thereon shall constitute a lien on the premises served in accordance with the Charter of the City of Holland and the applicable provisions of state law.

(5) Agreement. At the time of each application to connect to the water system of the City, and also at the time any additional trunkage charges become payable as provided in Subsection (c)(1) of this section, if any portion of the trunkage charge will be paid over time, as a condition precedent to connection and/or use of the water system, the owner of the premises to be served shall sign an agreement with the City stating the amount owed, the interest rate, and other payment terms, and that the unpaid charges and all interest and penalties thereon shall constitute a lien on the premises served. If any installment of any trunkage charge or any interest or penalties thereon is not paid in a timely manner, the City shall have the right to discontinue water service to the premises. Water service shall not be restored to the premises until all amounts then due and payable are payable in full.

(6) Tax bill collection. If any lateral fee, frontage charge, or trunkage charge, or any interest or penalties thereon is delinquent for three months or more, then on or before November 1 of each year, it shall be certified to the City Treasurer, who shall enter the lien on the next tax roll against the premises to which water service has been provided, and the charges shall then be collected and the lien shall be enforced in the same manner as provided for the collection of taxes assessed upon the roll and the enforcement of the lien for taxes.

(7) Lien for payment of charges. If an installment of a trunkage charge is not paid, with all interest, on or before its due date, then such delinquent installment shall be treated and have the same status as a delinquent installment of a special assessment pursuant to Public Act No. 188 of 1954 (MCLA § 41.721 et seq.), as amended, or any similar statute, and such delinquent installment shall be collected by the City in the same manner as provided in Public Act 188 or similar successor statute for delinquent installment payments of special assessments in addition to any other remedy provided for in the Ordinance Code of the City of Holland or in an agreement executed by the owner of the premises served and the City.

Sec. 37-29.2. Effective date for charges for water. [Ord. No. 1321, 11-7-2001]

The charges and fees for water as set forth in Section 37-29.1 shall not apply to connections, expanded uses, or other conditions relating to outstanding building permits issued, reissued, or renewed by the City of Holland prior to October 24, 2001.

ARTICLE III
Lien as Security for Collection of Service Charges

Sec. 37-30. Created. [Ord. No. 1161, 3-6-1996]

Except as otherwise provided or limited by state law, the City shall have as security for the collection of all charges for water services as authorized by the Collection of Water Charges Act, a lien upon the premises to which such water services were supplied. Such lien shall become effective immediately upon the distribution or supplying of such water service or services to such premises, but shall not be enforceable for more than three years. The term

"charges for water services" shall mean the rates, any assessments, fees, or rentals due or to become due, respectively, and all other charges for furnishing such service, and all repairs, maintenance and alterations of such service, which the City determines to be the responsibility of the service customer.

Sec. 37-31. Placement on tax rolls. [Ord. No. 1161, 3-6-1996]

Those charges which are delinquent for three months or more on June 30 of each year shall be reported by the City Auditor to the Council at the first meeting thereof in the month of July. The Council thereupon shall order the publication in a newspaper published in the City of notice to all owners of property within the City that all unpaid water charges which have remained unpaid for a period of three months or more prior to June 30, which have not been paid by October 1, shall be assessed upon the City's tax roll against the premises to which the water services were supplied or furnished and that such charges shall be collected in the same manner as the City taxes on such tax roll.

Sec. 37-32. Enforcement. [Ord. No. 1161, 3-6-1996]

All such water charges which remain unpaid on October 1 shall be transferred to the City's tax roll and assessed against the premises to which the water service was supplied or furnished. This assessment shall be collected with, and in the same manner as, City taxes. If the same have remained delinquent and unpaid after the expiration of the time limited in the Treasurer's warrant for the collection of taxes levied in such tax roll, such charges shall be returned to the County Treasurer to be collected in the same manner as the lien created by City taxes on the delinquent tax roll of the City.

Sec. 37-33. Protection of landlord, notice of lease and security deposit. [Ord. No. 1161, 3-6-1996; amended 10-1-2014 by Ord. No. 1639]

If the owner of a premises which receives water services provided by the Holland Board of Public Works shall lease such premises to a tenant who is responsible under the lease for the payment of the charges for water services, and such property owner notifies the HBPW, in writing, of such fact, the notice to include a true copy of the lease of the affected premises executed by the owner or his/her designated agent and the tenant, then the charges for water services provided to such leased premises shall not become a lien against the premises after the date such notice is received by the HBPW. Immediately after the filing of such notice, the HBPW shall render no further service to the premises until it receives from the tenant, or an individual or entity acting on behalf of the tenant, a security deposit as security for the payment of the water charges. Deposits shall be refunded to the tenant, or to the individual or entity that paid the deposit on behalf of the tenant, upon a customer's completion of 12 consecutive months of good credit history or upon the termination of utility service with the account in good standing.

ARTICLE IV

Lead and Copper Rule

Sec. 37-34. Water System Advisory Council. [12-5-2018 by Ord. No. 1754]

Pursuant to R 325.10410 of 2018 MR 11 (effective June 14, 2018), adopted by the Michigan Department of Environmental Quality pursuant to § 5 of Public Act 399 of 1976, MCL 325.1005, the Water System Advisory Council ("Council") is created, subject to the following terms and conditions.

(a) The Council shall have at least five members recommended by the Holland Board of Public Works and appointed by the Holland City Council. To be eligible for an appointment to the Council, an individual shall have a demonstrated interest in or knowledge about lead in drinking water and its effects. At least one member of the Council must be a local resident who does not formally represent the interests of any incorporated organization.

(b) The business that the Council performs shall be conducted at a public meeting of the Council and held in compliance with the Open Meetings Act, 1976 PA 267, MCLA §§ 15.261 to 15.275.

(c) The first meeting of the Council shall be called by the Holland Board of Public Works. At the first meeting, the Council shall elect from its members a Chairperson and other officers as it considers necessary or appropriate, and may adopt bylaws for its operation. After the first meeting, the Council shall meet at least annually.

(d) A writing prepared, owned, used, in the possession of, or retained by the Council in the performance of an official function is subject to the Freedom of Information Act, 1976 PA 442, MCLA §§ 15.231 to 15.246.

(e) The Council shall do the following and shall perform such duties by advising and reporting to the Board of Directors of the Holland Board of Public Works:

(1) Develop plans for continuing public awareness about lead in drinking water, even when the action level is not exceeded.

(2) Review public awareness campaign materials provided by the Statewide Drinking Water Advisory Council to ensure the needs and interests of the community, considering the economic and cultural diversity of its residents, are addressed.

(3) Advise and consult with the Holland Board of Public Works on the development of appropriate plans for remediation and public education to be implemented if a lead action level is exceeded.

(4) Advise and consult with the Holland Board of Public Works on efforts to replace private lead service lines at locations where the owner declined service line replacement.

(5) Assist in promoting transparency of all data and documents related to lead in drinking water within the Holland Board of Public Works service area.

(6) Collaborate with local community groups to ensure that residents have the opportunity to be involved in efforts to educate the community about lead in drinking water.

(f) The Council may independently seek advice, direction, and assistance from the Department or the Statewide Advisory Council.

Sec. 37-35. Water Service Line Replacement. [Added 4-17-2019 by Ord. No. 1765]

(a) For purposes of this section, a lead service line means either a service line which is made of lead or any lead pigtail, lead gooseneck, or other lead fitting that is connected to the service line, or both. A service line shall mean the pipe from the discharge of the corporation fitting to the customer site piping or to the building plumbing at the first shut-off valve inside the building, or 18 inches inside the building, whichever is shorter.

(b) Pursuant to R 325.10410 of 2018 MR 11 (effective June 14, 2018), adopted by the Michigan Department of Environmental Quality pursuant to § 5 of the Public Act 399 of 1976, MCLA § 325.1005 (LCR), the City of Holland, acting by and through its Holland Board of Public Works (HBPW), shall adopt a schedule for the replacement of lead service lines based upon scheduled repair and replacement water projects, community resources, availability of contractors and licensed plumbers, and water utility resources to complete lead service line replacements as required by the LCR.

(c) The HBPW, pursuant to the LCR, shall be responsible to install a new nonlead service line at the HBPW's expense, from the curb box in the public right-of-way way to the water meter on the owner's property; to set a meter; and make any necessary connections to reset the water meter. The existing water lead service line will be disconnected and capped off inside or outside the building.

(d) The HBPW shall require that the owner/service customer (customer) execute an access agreement allowing the HBPW, its employees, agents, or contractors to enter on the property to construct and install the new nonhead service line; and to conduct a preinspection of the water service line as it enters inside the building and connects to the meter to determine if the meter setting is correct, and if the meter should be replaced.

(e) The customer's failure to execute the HPBW's access agreement, allow access and permit installation of a new nonlead service line shall constitute a violation of this section, and the HBPW may elect one of the following enforcement options:

(1) Upon 15 days' written notice to the customer, discontinue water service to the customer;

(2) Permit the customer to execute a declination of service line replacement which advises the customer that such declination could result in required service line replacement at the end of the schedule for replacement (January 1, 2041). The declination of service shall not be effective unless the customer permits the HBPW to conduct sampling and testing pursuant to the requirements of the LCR and the testing and sampling by the HBPW is acceptable.

(f) After installation of the new, nonlead service line, the responsibility of the customer and the HBPW shall be as shown on the diagram below. After the expiration of any warranty period, the customer shall hold the City harmless and free from any claim or liability of damage done in the performance of the water service line replacement work.

Holland BPW Water System
Water Service Line Responsibilities:

Chapter 38

(RESERVED)

[Former Ch. 38, Weights and Measures, adopted by Ord. No. 463, as amended, was repealed 10-7-2015 by Ord. No. 1661.]

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This chapter shall be known as the "Zoning Ordinance of the City of Holland."

Sec. 39-2. Definitions. [Ord. No. 464, § 9-1.2; Ord. No. 587; Ord. No. 601; Ord. No. 609; Ord. No. 617; Ord. No. 1007, 10-17-1992; Ord. No. 1091, 6-2-1993; Ord. No. 1185, 9-6-1996; Ord. No. 1188, 2-19-1997; Ord. No. 1260, 8-18-1999; Ord. No. 1282, 7-5-2000; Ord. No. 1366, § 1, 8-20-2003; Ord. No. 1526, 2-4-2009; Ord. No. 1576, 1-18-2012; amended 1-15-2013 by Ord. No. 1622; 6-5-2013 by Ord. No. 1606; 6-19-2013 by Ord. No. 1609; 6-4-2014 by Ord. No. 1630; 10-1-2014 by Ord. No. 1640; 8-3-2016 by Ord. No. 1674; 3-7-2018 by Ord. No. 1727; 3-7-2018 by Ord. No. 1730; 4-18-2018 by Ord. No. 1734]

For the purpose of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

ACCESSORY BUILDINGS — A subordinate building or structure on the same premises with a main building, or a portion of a main building or structure, occupied or devoted to an accessory use. Where an accessory building is attached to a main building by a wall higher than six feet above finished grade, or by a roof, such accessory building shall be considered part of the main building for purposes of establishing height, area and yard requirements.

ACCESSORY USE — A use naturally and normally incidental to a principal use on the same premises.

AMBIENT — The sound pressure level exceeded 90% of the time or L90.

ANEMOMETER TOWER — A freestanding tower containing instrumentation such as anemometers that is designed to provide present moment wind data for use by the supervisory control and data acquisition (SCADA) system which is an accessory land use to a utility grid wind energy system.

ANSI — The American National Standards Institute.

AUTOMOBILE OR TRAILER SALES AREA — An area used for the display, sale or rental of new or used motor vehicles or trailers in operable condition and where no repair work is done.

AUTOMOBILE SALVAGE — The dismantling or disassembling of used motor vehicles or trailers, or the storage, sale or dumping of dismantled, partially dismantled or wrecked vehicles or their parts.

BED-AND-BREAKFAST ESTABLISHMENTS — An owner-occupied single-family residence licensed to provide overnight sleeping accommodations and to serve breakfast to paying guests in accordance with regulations governing such activity.

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1. Editor's Note: This ordinance amended Ch. 39 in its entirety.

BOARDINGHOUSE or ROOMING HOUSE — A dwelling with one kitchen and used for the purpose of providing meals or lodging, or both meals and lodging, for pay or compensation of any kind, computed by day, week or month, to more than two persons other than members of the family occupying such dwelling.

CENTRAL NEIGHBORHOOD DISTRICT — The area bounded by properties with frontage on the following: 8th Street on the north; Fairbanks Avenue north of 16th Street and Lincoln Avenue south of 16th Street on the east; 16th Street between Fairbanks Avenue and Lincoln Avenue, and 24th Street extended on the south; and Ottawa Avenue on the west.

CONDOMINIUM UNIT — That portion of a site condominium project designed and intended for separate ownership and use, as described in the master deed, regardless of whether it is intended for residential, commercial, office, industrial, business, recreational, use as a time-share unit, or any other type of use.

dB(A) — The sound pressure level in decibels. It refers to the A-weighted scale defined by ANSI; a method for weighting the frequency spectrum to mimic the human ear.

DECIBEL — The unit of measure used to express the magnitude of sound pressure and sound intensity.

DEVELOPMENT PLAN — A plan for a project requiring review under Article II of this chapter for properties located in a PUD or PRD District or a site condominium project. (See also the definition of "site plan" in this section.)

DURABLE SURFACE — A surface consisting of asphalt, concrete, pavers, permeable pavement, grass pavers or another similar durable surface.

DWELLING or APARTMENT — A building or portion thereof designed or used exclusively as the residence or sleeping place of one or more persons, including one-family, two-family and multiple dwellings, apartment-hotels, hotels, boarding- and lodging houses, but not including motels, tourist cabins or trailers.

DWELLING UNIT — One room or a suite of two or more rooms designed for or occupied by not more than one family with substantially all of the following characteristics: one mailbox, entrances enter common living space(s), full and equal access to all of the home, no separate independent access to only part of the home, single utility connection for water, sewer and electric, interconnected smoke detectors throughout the home on all floors, only one lease for the entire unit, occupants form a single housekeeping group.

EFFECTIVE DATE OF THIS ORDINANCE — Wherever the provisions of this chapter refer to the effective date or the date of enactment of a section, such reference shall be to the effective date or date of enactment of the ordinance adopting such section and not to the effective date of the recodification of this chapter.

ESSENTIAL SERVICES — The erection, construction, alteration or maintenance by public utilities or municipal departments or commissions of a power station, generating station or power plant of unrestricted height for the production of electricity, light, heat, hot water or other discharge products, and underground or overhead gas, electrical, steam or water transmission or distribution system, communication, supply or disposal system, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, towers, electric substations, telephone exchange buildings, gas regulator stations and other similar equipment and accessories in connection therewith

reasonably necessary for the furnishing of utility service by such public utilities or municipal departments or commissions or for the public health or safety or general welfare.

FAMILY —

(a) A person living alone;

(b) Two or more persons related by blood, marriage, adoption or guardianship customarily living together as a single housekeeping unit in a dwelling unit using common cooking facilities as distinguished from a group occupying a hotel, club, religious or institutional building, boarding- or lodging house, or fraternity or sorority house;

(c) Two persons living together with their children by birth, adoption or guardianship as a single housekeeping unit in a dwelling unit using common cooking facilities as distinguished from a group occupying a hotel, club, religious or institutional building, boarding- or lodging house, or fraternity or sorority house; or

(d) Up to four unrelated persons (including roomers or boarders) living together as a single housekeeping group in a dwelling unit using common cooking facilities.

FENCE — A barrier, railing, buffer or other upright structure, typically of wood, metal or vinyl, enclosing an area of ground, marking a boundary, screening an activity, or creating a visual or physical barrier.

FRATERNITY and SORORITY — A group of enrolled students associated or formally organized and attending a college, university, or other institution of higher education customarily living together as a single housekeeping unit.

GARAGE, PRIVATE — A detached accessory building or portion of a main building used primarily for the storage of passenger vehicles and for not more than one truck of a rated capacity not exceeding 1 1/2 tons, or both.

GENERAL COMMON ELEMENTS — That portion of a site condominium project, other than the condominium units, and other than the limited common elements.

HOME BUSINESS — A home-based business, occupation, or profession that results in a product or service that is clearly an accessory, incidental, and secondary use of a residential dwelling unit that may exhibit evidence that a business is being conducted from the premises.

HOME OCCUPATION — A business, occupation, or profession that results in a product or service that is clearly an accessory, incidental, and secondary use of a residential dwelling unit with no exterior evidence that a business is being conducted from the premises, except those typically residential activities noted in § 39-192(c). Music instruction in the home shall be deemed a home occupation.

HOPE NEIGHBORHOOD AREA — The area bounded by 10th Street on the north between River and Lincoln and 11th Street between Lincoln and Fairbanks; Fairbanks between 11th and 16th and then Hazel Avenue between 16th Street and 17th Street on the east; a portion of 16th Street between Fairbanks and Hazel and 17th Street on the south; and River Avenue on the west.

IEC — The International Electrotechnical Commission.

ISO — The International Organization for Standardization.

JUNKYARDS — A place where waste, discarded or salvaged materials are bought, sold, exchanged, stored, baled, cleaned, packed, disassembled or handled, including house wreck yards, used lumber yards and places or yards for use of salvaged house wrecking and structural steel materials and equipment, but excluding such uses when conducted entirely within a completely enclosed building and excluding pawn shops and establishments for the sale, purchase or storage of used cars in operable condition, salvaged machinery, used furniture and household equipment, and the processing of used, discarded or salvaged materials as part of manufacturing operations.

LEASE UNIT BOUNDARY — The boundary around property leased for purposes of a wind energy system, including adjacent parcels to the parcel on which the wind energy system tower or equipment is located. For purposes of setback, the lease unit boundary shall not cross road rights-of-way.

LIGHT ASSEMBLY — Putting together small mechanical or fabricated parts that have been manufactured elsewhere into a value-added or final product. Testing and calibrating of the parts and final product to meet product specifications may also be included in the process. Light assembly is also characterized by the use of small hand-held tools and residential scale tabletop/workshop machinery.

LIMITED COMMON ELEMENTS — That portion of a site condominium project, other than the condominium units, reserved in the master deed for the exclusive use of less than all of the co-owners.

LOT — A parcel of land which is or may be occupied wholly or in part by one principal building or use and its accessories, and having either immediate frontage upon a public street or a permanent, exclusive, nonobstructed deeded access to a public street.

MASTER DEED — The condominium document establishing the site condominium project and to which are attached as exhibits and incorporated by reference the bylaws for the site condominium project and the condominium subdivision plan for the site condominium project, containing all information required by Michigan Act 59 of 1978, as amended, or any similar successor statute.

MOTELS — Groups of furnished rooms or separate structures providing sleeping and parking accommodations for transient tourist trade, commonly known as tourist cabins or motor courts, as distinguished from furnished rooms in an existing residential building.

NONCONFORMING STRUCTURE — A structure lawfully existing at the time of adoption of this chapter, or any amendment thereto, and which does not conform to the regulations of the district in which it is located.

NONCONFORMING USE — A use which lawfully occupied a structure or land at the time of adoption of this chapter, or any amendment thereto, and which does not conform to the regulations of the district in which it is located.

ON-SITE WIND ENERGY SYSTEM — A land use for generating electric power from wind that is accessory to a legal principal use and intended to primarily serve the needs of the electric power consumer at that site.

ONE-FAMILY OR SINGLE-FAMILY RESIDENCE — A building designed for or exclusively occupied by one family.

PARKING AREA — An open area, other than a street or other public way, used for the parking of three or more motor vehicles and available for public use, whether for a fee or as an accommodation for clients, customers, residents or members.

PETROLEUM BULK PLANTS — An establishment for the storage of petroleum products in bulk and in packages for distribution by tank car, tank vehicle, or motor truck.

PRINCIPAL OR PRIMARY USE — The predominant use of the premises.

ROOFLINE — The eaveline of a roof or building parapet, whichever is higher, but excluding any cupolas, chimneys, or other minor projections.

ROTOR — An element of a wind energy system that acts as a multibladed airfoil assembly, thereby extracting, through rotation, kinetic energy directly from the wind.

SCREENING — A method of visually shielding or obscuring an abutting or nearby structure or use from another by fencing, walls, berms, gates, building features, or plantings of sufficient height, length, and opacity to form a visual barrier.

SHADOW FLICKER — Alternating changes in light intensity caused by the moving blades of a wind energy system casting shadows on the ground and stationary objects, such as but not limited to a window at a dwelling.

SHORT-TERM RENTAL — A dwelling unit offered for rent in part or its entirety for less than 30 consecutive days per occupant.

(a) OWNER-OCCUPIED — A dwelling unit where owners reside and rent or offers for rent one room up to 365 days per calendar year or the entire dwelling unit for up to 60 days while all owners are away.

(b) NONOWNER-OCCUPIED — A dwelling unit that is not an individual owner's residence, and is rented or offered for rent in its entirety for less than 30 consecutive days per occupant and permitted by Chapter 39.

(c) TULIP TIME — A dwelling unit offered for rent in part or in its entirety for not more than 10 days during the designated Tulip Time Festival in May.

SIGN — A device, structure, fixture, or placard using graphics, symbols and/or written copy, designed specifically for the purpose of identifying an establishment, product, service or activity.

SIGN FACE — The area of a sign that displays a message, including the extreme limits of writing, emblem, logo and similar representation.

SIGN TYPES —

(a) AWNING or CANOPY — A sign fixed to or integral with the surface of an awning or canopy.

(b) BALLOON — An object composed of an inflatable, nonporous bag.

(c) BANNER — A fabric, plastic, or other object made of nonridged material without an enclosing structural framework.

(d) BILLBOARD AND OFF-PREMISES ADVERTISING — A sign which contains a message or advertises an establishment, product, service, space or activity not available on the lot on which the sign is located. For purposes of this article, a movable freestanding sign is not considered a billboard or off-premises advertising sign.

(e) DIRECTIONAL — A sign that provides directions or instructions for the use on the lot on which the sign is located, such as parking or exit and entrance signs.

(f) ESSENTIAL SERVICES — Signs that provide directions to or notices of equipment and accessories reasonably necessary for the furnishing of utility service or for the public health, safety, or general welfare by public utilities or municipal departments and commissions.

(g) FLAG — A piece of fabric with a distinctive design, logo, emblem or words.

(h) FEATHER FLAG/FEATHER BANNER — A piece of fabric, typically taller than it is wide, with a distinctive design, logo, emblem or words, specifically designed and used to draw attention to a product, service or location.

(i) FREESTANDING — A permanent sign not anchored or secured to a building or the ground and designed to be placed during business hours and moved inside when not in use.

(j) GOVERNMENT — A temporary or permanent sign erected by the City of Holland, Allegan or Ottawa County, or the state or federal government including temporary signs as necessary in conjunction with the improvement of public infrastructure.

(k) MARQUEE — A sign affixed flat against the surface of the marquee.

(l) MOVEABLE FREESTANDING — A freestanding sign not anchored or secured to a building or the ground.

(m) MURALS —

(1) TYPE 1 — A design or representation which does not contain promotional or commercial advertising painted or drawn on a wall.

(2) TYPE 2 — An original, one-of-a-kind unique design or representation which contains limited references to the establishment, product, or service provided on the site which is painted or drawn on a wall on that site.

(n) NEIGHBORHOOD COMMERCIAL DISTRICT IDENTIFIER — A sign located at, near, or within the boundary of an established neighborhood commercial area (excluding the C-3 Downtown Commercial District) and solely identifying the name and/or logo of the neighborhood commercial area.

(o) NONCONFORMING — A permanently installed sign, legally existing at the original installation, which does not conform to the current height, size, area or location requirements of this article as of the date of the adoption of this section.

(p) PLACARD — A sign which provides notices of a public nature, i.e., "No Trespassing" or "No Hunting."

(q) PERMANENT — A sign which has a permanent location on the ground or which is attached to a structure having a permanent location and which meets the structural requirements for signs as established in the Building Code.

(r) PROJECTING — A double-faced sign attached to a building or wall.

(s) READER BOARD — A portion of a sign on which copy is changed periodically either manually or electronically.

(t) ROOF SIGN — A sign erected above the roofline of a building.

(u) TEMPORARY — A sign intended for a limited period of display, typically less than 30 days.

(v) WALL SIGN — A single-faced sign painted or attached directly to and parallel to the exterior wall of a building.

(w) WINDOW SIGN — A sign placed on the glass of a window or door that is used for advertising or identification, and intended to be viewed from the outside of the building.

(x) WAYFINDING SIGN — A temporary or permanent information system installed or erected by the City of Holland or the Downtown Development Authority, for the purpose of guiding citizens and tourists and identifying specific places and parking areas.

SINGLE OWNERSHIP — A lot of record on or before August 16, 1961, in separate and distinct ownership from adjacent lot or lots where such adjacent lot or lots were not at that date owned by the same owner or by the same owner by the entireties, in joint tenancy or tenancy in common with any other person or persons.

SITE CONDOMINIUM PROJECT — The term "site condominium" and "condominium" shall be synonymous unless the specific context of the ordinance would indicate otherwise.

SITE PLAN — A plan for projects requiring review by the Planning Commission pursuant to Article II of this chapter. (See also the definition of "development plan" in this section.)

SOUND PRESSURE — An average rate at which sound energy is transmitted through a unit area in a specified direction. The pressure of the sound measured at a receiver.

SOUND PRESSURE LEVEL — The sound pressure mapped to a logarithmic scale and reported in decibels (dB).

STRUCTURAL CHANGES OR ALTERATIONS — Any change in the supporting members of a building, such as bearing walls, columns, beams or girders, or any substantial change in the roof.

STRUCTURE — Anything constructed or erected that has a permanent location on the ground or is attached to something having such location.

TWO-FAMILY RESIDENCE — A building designed for or used for two dwelling units.

UTILITY GRID WIND ENERGY SYSTEM — A land use for generating electric power by use of wind at one or multiple tower locations in a community, including accessory uses, such as but not limited to a SCADA tower and an electric substation. A utility grid wind

energy system is designed and built to provide electric power to the electric utility grid rather than the electric power consumer on site.

WIND ENERGY SYSTEM — A land use for generating power by use of wind, utilizing wind turbine generators, including the turbine, blades, and tower as well as related electrical equipment. This does not include wiring to connect the wind energy system to the electric utility grid. See also "on-site wind energy system" and "utility grid wind energy system."

WIND SITE ASSESSMENT — An assessment to determine the wind speeds at a specific site and the feasibility of using that site for construction of a wind energy system.

YARDS —

(a) FRONT YARD IN R-TRN TRADITIONAL RESIDENTIAL NEIGHBORHOOD ZONE DISTRICT — The open, unoccupied space between the front line of the building, excluding steps and unenclosed porches, and the street line, and extending for the full width of the lot. On a corner lot, the lot dimension along both street lines shall be deemed to be the front lot line. Front yards shall be measured to the front property line less any area taken for public right-of-way purposes.

(b) FRONT YARD — The open, unoccupied space between the front line of the building, excluding steps and unenclosed porches, and the street line, and extending for the full width of the lot. On a corner lot, the narrowest lot dimension along a street line shall be deemed to be the front lot line. Front yards shall be measured to the front property line less any area taken for public right-of-way purposes.

(c) REAR YARD — A space unoccupied, except by an accessory building or use as permitted by this chapter, extending for the full width of the lot between any building other than a building of accessory use and the rear lot line.

(d) SIDE YARD — An open, unoccupied space on the same lot with the building, between the building and the side lot line, extending from the front yard to the rear yard. On a corner lot, the widest lot dimension along a street line shall be deemed to be a side lot line. In the R-TRN Traditional Residential Neighborhood Zone District, on a corner lot, the lot dimension along a public alley or a common property line with another lot shall be considered the side lot line.

(e) THROUGH LOT — When a lot has two front yards, the side of the property abutting a street with the higher speed limit shall be considered the rear yard.

Sec. 39-3. Interpretation and purposes; conflicting regulations. [Ord. No. 464, § 9-1.1; Ord. No. 1188, 2-19-1997]

(a) The provisions of this chapter shall be held to be minimum requirements adopted for the promotion of the public health, safety, morals and general welfare. Among other purposes, such provisions are intended to provide for adequate light, air and convenience of access to secure safety from fire and other dangers and to avoid undue concentration of population by regulating and limiting the height and bulk of buildings wherever erected, limiting and determining the size of yards, courts and other open spaces, regulating the density of population, and regulating and restricting the location of uses, trades, industries and buildings in relation to traffic and parking needs.

(b) Adoption of this chapter is not intended to repeal, abrogate, annul or in any way impair or interfere with existing provisions of this Code or other laws or ordinances, except those specifically repealed by this chapter or of any private restrictions placed upon property by covenant, deed or other private agreement. Where this chapter imposes a greater restriction upon the use of buildings or premises or upon the height of buildings or lot coverage, or requires greater lot areas, or larger yards, courts or other open spaces than are imposed or required by such existing provisions of this Code or other law or ordinance, or by such rules, regulations or permits, or by such private restrictions, the provisions of this chapter shall control.

Sec. 39-4. Districts established and enumerated. [Ord. No. 464, § 9-1.3; Ord. No. 551; Ord. No. 1188, 2-19-1997; Ord. No. 1222, 8-19-1998; Ord. No. 1274, 3-1-2000; Ord. No. 1298, § 2, 5-23-2001; Ord. No. 1415, § 2, 6-1-2005; 3-7-2018 by Ord. No. 1727]

For the purposes of this chapter, the City is hereby divided into the following classes of zone districts known as:

I-1	Industrial District
I-2	Industrial District
C-1	Neighborhood Commercial District
C-2	Highway Commercial District
C-3	Central Business District
C-4	Regional Shopping Center District
C-5	Professional Office Service District
R-1	One-Family Residential District
R-2	One- and Two-Family Residential District
R-3	Residential District
R-4	Mobile Home Development and Residential District
R-5	Apartment District
R-6	Central Apartment District
R-TRN	Traditional Residential Neighborhood District
AG	Agricultural District
PRD	Planned Residential Development District
ED	Education District
PUD	Planned Unit Development District
WIND	Windmill Island Neighborhood Business District
M-40	Corridor/South End Overlay Zone District
I-196	Overlay Zone District

Sec. 39-4.1. Consolidated public notice requirements. [Ord. No. 1461, 9-6-2006; amended 3-7-2018 by Ord. No. 1727]

(a) Public notification. All applications for development approval in the City requiring a public hearing shall comply with the Michigan Zoning Enabling Act, P.A. 110 of

2006,[2] and other provisions of this section with regard to public notification. All matters appealed to the Zoning Board of Appeals pursuant to Article XII shall comply with the notice provisions set forth in such article.

(b) Responsibility. When the provisions of this section or the Michigan Zoning Enabling Act require that notice be published, the City Clerk or his/her designee shall be responsible for preparing the content of the notice, having it published in a newspaper of general circulation in the City of Holland, and mailed or delivered as provided in this section.

(c) Content. All mail, personal and newspaper notices for public hearings shall include the following:

(1) Description of request: describe nature of the request; identify whether the request is for a rezoning, text amendment, special land use, planned unit development, variance appeal, site or development plan review, ordinance interpretation, or other purpose.

(2) Location: indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the subject property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used, such as a tax parcel identification number, identifying the nearest cross street, or including a map showing the location of the property. No street addresses must be listed when 11 or more adjacent properties are proposed for rezoning, or when the request is for an ordinance interpretation not involving a specific property.

(3) Hearing location: when and where the request will be considered and indicate the date, time, and place of the public hearing(s).

(4) Written comments: include a statement describing when and where written comments will be received concerning the request. Include a statement that the public may appear at the public hearing in person or by counsel.

(5) Handicap access: information concerning how handicap access will be accommodated if the meeting facility is not handicap accessible.

(d) Publication/personal and mailed notice:

(1) General. When the provisions of this section or state law require that personal or mailed notice be provided, notice shall be provided to:

a. The owners of property for which approval is being considered, and the applicant, if different than the owner(s) of the property.

b. For rezoning requests or zoning ordinance amendments involving 10 or fewer adjacent properties, or an ordinance interpretation that does involve a specific property; to all persons to whom real property is assessed within 300 feet of the boundary of the property subject to the request, regardless of

2. Editor's Note: See MCLA § 125.3209.

whether the property or occupant is located within the boundaries of the City. If the name of the occupant is not known, the term "occupant" may be used in making notification. Notification need not be given to more than one occupant of a structure, except that if a structure contains more than one dwelling unit or spatial area owned or leased by different individuals, partnerships, businesses, or organizations, one occupant of each unit or spatial area shall receive notice. In the case of a single structure containing more than four dwelling units or other distinct spatial areas owned or leased by different individuals, partnerships, businesses or organizations, notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance to the structure. In addition, notice of the public hearing shall be published in a newspaper of general circulation in the City.

c. For rezoning requests or zoning ordinance amendments involving 11 or more adjacent properties, or an ordinance interpretation that does not involve a specific property, the City shall provide notice of hearing by publication of notice of the request in a newspaper of general circulation in the City. The notice of publication shall not require the listing of individual addresses of property as required in Subsection (c)(2) of this section.

d. All neighborhood organizations, public utility companies, railroads, and other persons which have requested to receive notice pursuant to this section under Subsection (e)(3), registration to receive notice by mail.

(2) Notice by mail/affidavit. Notice shall be deemed mailed by its deposit in the United States mail, first class, properly addressed, and postage paid. The City Clerk, or his/her designee, shall prepare a list of property owners and registrants to whom notice was mailed, as well as of anyone to whom personal notice was delivered.

(e) Timing of notice. Unless otherwise provided in the Michigan Zoning Enabling Act, P.A. 110 of 2006,[3] or this section where applicable, notice of a public hearing shall be provided as follows:

(1) For a public hearing on an application for a rezoning, text amendment, special land use, planned unit development, variance appeal, site or development plan review, ordinance interpretation, or other purpose: not less than 15 days before the date the application will be considered for approval.

(2) For any other public hearing required by this section: not less than 15 days before the application will be considered for approval.

(3) Registration to receive notice by mail; general. Any neighborhood organization, public utility company, railroad or any other person may register with the City Clerk or his/her designee to receive written notice of all applications for development approval pursuant to this section, personal and mailed notice, or written notice of all applications for development approval within the zoning district in which they are located. The City Clerk, or his/her designee, shall be

3. Editor's Note: See MCLA § 125.3209.

responsible for providing this notification. Fees may be assessed for the provision of this notice, as established by the City Council.

(4) Requirements. The requesting party must provide the City Clerk or his/her designee information on an official form to ensure notification can be made. All registered persons must reregister annually to continue to receive notification pursuant to this section.

(5) Effective date of ordinance amendment. Following adoption of a zoning ordinance and any subsequent amendments to the zoning ordinance, the zoning ordinance or subsequent amendments shall be filed with the City Clerk, and a notice of ordinance adoption shall be published in a newspaper of general circulation in the City in conformance with Act 110 of the Public Acts of 2006, as amended, within 15 days after adoption. A zoning ordinance shall take effect upon the expiration of seven days after publication or at such later date after publication as may be specified by the City at the time of the adoption of the zoning ordinance or any subsequent amendments.

Sec. 39-5. District boundaries; Zoning Map; lots divided by boundary lines. [Ord. No. 464, § 9-1.3; Ord. No. 1182, 9-11-1996; Ord. No. 1188, 2-19-1997]

(a) The boundaries of the districts enumerated in Section 39-4 are hereby established as shown on a map entitled "The Zoning Map of the City of Holland, Michigan," adopted July 26, 1961 and as amended from time to time by action of the City Council, which accompanies this chapter and is made a part of this section. Except where referenced on such map to a street line or other designated line by dimensions shown on such map, the district boundary lines follow lot lines or the center lines of streets or alleys as they existed at the time of the adoption of this chapter; but where a district line does not coincide with such lot lines or such street center lines or where it is not designated by dimensions, it shall be deemed to be 132 feet back from the nearest parallel street line. The reference on the Zoning Map to D-1 shall be deemed I-1, D-2 shall be deemed I-2, A-1 shall be deemed R-1, A-2 shall be deemed R-2, A-3 shall be deemed R-3, A-4 shall be deemed R-4, B-1 shall be deemed R-5 and B-3 shall be deemed R-6.

(b) Where a district boundary line, as established in this section or as shown on the Zoning Map, divides a lot or lots in common ownership and of record at the time of enactment of this chapter, the least restricted use shall be considered as extending to the entire lot, if the more restricted portion of such lot is entirely within 25 feet of such dividing district boundary line. The use so extended shall be deemed to be conforming.

Sec. 39-6. Classification of annexed areas. [Ord. No. 464, § 9-1.3; Ord. No. 1188, 2-19-1997; Ord. No. 1543, 3-17-2010]

Whenever any area is annexed to the City, if such area was subject to zoning regulations at the time of such annexation, the following classifications shall be applied, pending an overall analysis and adoption of new City zoning regulations with respect to such area:

(a) Areas previously zoned for industrial uses shall become an I-2 Industrial District.

(b) Areas previously zoned for commercial uses shall become a C-2 Highway Commercial District;

(c) Areas previously zoned for residential uses shall become an R-1 One-Family Residential District; and

(d) Areas previously zoned for agricultural uses shall become an AG Agricultural District.

The Zoning Maps in effect at the time of annexation shall be utilized to delineate new district boundaries pending revision thereof by the City. Whenever any unzoned area is annexed to the City, such area shall become an AG Agricultural District pending an overall analysis and adoption of City zoning regulations with respect to such area.

Sec. 39-7. Compliance with district regulations. [Ord. No. 464, § 9-1.4; Ord. No. 1188, 2-19-1997]

Except as hereinafter specified, no building, structure or premises shall hereafter be used or occupied, and no building or part thereof or other structure shall be erected, razed, moved, placed, reconstructed, extended, enlarged or altered, except subject to and in conformity with the regulations set forth in this chapter for the district in which it is located.

Sec. 39-8. Restoring unsafe buildings. [Ord. No. 464, § 9-1.4; Ord. No. 1188, 2-19-1997]

Nothing in this chapter shall prevent the strengthening or restoring to a safe condition of any part of any building or structure declared unsafe by the Building/Zoning Administrator.

Sec. 39-9. Special requirements relative to mixed occupancy. [Ord. No. 464, § 9-1.4; Ord. No. 1188, 2-19-1997]

Before issuing a building permit for any construction for any premises intended for a combination of dwelling and commercial or dwelling and industrial occupancy, or which would result in an increased number of dwelling units within a building partly occupied by business or industrial usage, or which would result in an increased area devoted to business or industrial usage within a building partly occupied as a dwelling, the Building/Zoning Administrator shall refer the plans to a Fire Chief and request their reports as to any fire or health hazards that exist or may be expected to exist and their recommendations as to desirable additional provisions or changes in the interest of safety or health shall be complied with before issuance of a permit.

Sec. 39-10. Substandard residential lots. [Ord. No. 761; Ord. No. 1150, 8-16-1995; Ord. No. 1188, 2-19-1997; Ord. No. 1222, 8-19-1998; 3-7-2018 by Ord. No. 1727]

No lot or lots in common ownership, and no yard, court, parking area or other space, shall be divided, altered or reduced to make such area or dimension less than the minimum required under this chapter. Notwithstanding any of the foregoing, any lot located in a subdivision platted and recorded in accordance with the Land Division Act, MCLA § 560.101 et seq., as amended, and located within an existing zoned district allowing and permitting residential development, may be used for the construction of a single-family residence if constructed

within the front, rear, or side yards and height limitations of the zone district in which such lot is situated. Upon demonstration by the owner of a lot that 60% or more of the lots within 300 feet of the property line along the same side of the street have developed at lesser front, rear, or side yards, lot width and lot area requirements than required in the zone district, the Zoning Board may reduce the setback, side yard, lot width and lot area requirements as a special exception, upon the findings that such encroachment is in character with and will not be detrimental to the adjoining neighborhood. Notwithstanding any of the foregoing, no dwelling shall be erected, built or constructed less than 10 feet from adjoining dwellings. In addition, previously platted and property subdivided under the Subdivision Control Act which is zoned to Planned Residential Development or Planned Unit Development is not eligible for development as under this section. Property so zoned shall be developed according to the development plan, subdivision, or site condominium approved by the City at the time of, or subsequent to, the adoption of the PRD or PUD zoning designation for that property. Requirements of this section shall not apply to development within the WIND zone district.

Sec. 39-11. Fences in Residential Zone Districts; traffic visibility. [Ord. No. 464, § 9-1.4; Ord. No. 1188, 2-19-1997; Ord. No. 1728]

(a) General fence standards.

(1) A permit is required prior to construction or installation of any fence.

(2) The fence shall be constructed at least one foot off a property line when a sidewalk exists.

(3) Fence gates shall not swing over public sidewalks.

(4) A twenty-foot clear vision area, measured 20 feet on each street side, shall be maintained on any corner lot whereby no fence or planting over three feet in height is permitted, except deciduous trees.

(5) No fence is permitted within a floodway.

(6) Only chain link fence is permitted within a drainage easement.

(7) Nonresidential uses in residential zone district: Fences up to eight feet in height are permitted. A special exception can be requested for a height increase for these uses per the regulations in Section 39-197(b).

(8) Free-standing fence sections up to a total length of 16 feet are considered landscaping and not a fence.

(9) When requesting a permit for fences that serve as enclosures for swimming pools, the applicant must comply with State of Michigan Building Code.

(10) Through lots are permitted a six-foot-tall fence on the property line designated as the rear yard.

(b) Measuring fence height. The fence body determines the fence height and is measured from grade to the top of the fence body. Posts may be up to 12 inches above the fence body. There will be an additional tolerance permitted of up to three inches due to grade changes along the fence.

(c) Fence types:

(1) Open fence. A fence that is more than 50% open when viewed from an angle perpendicular to the fence. Examples: dog-eared, wrought iron, gothic, board, round, split-rail.

(2) Solid fence. A freestanding and rigid fence made of wood, concrete, PVC, or other similar fence materials providing 50% or less visual and reasonable sound blocking properties. Examples: ornamental metal, rot-resistant wood, brick, block.

(d) Prohibited fences. Slats in chain link fence, barbed, razor, concertina, electrified or similar wire, fabric, tarp, materials not traditionally used for fencing or screening.

(e) Fence maintenance. All fences must be kept in good repair, safety, and appearance on both sides of the fence by its owner. Fences must be constructed of wood, metal, bricks, masonry, plastic or other materials designed for permanent outdoor fencing. Wood fences must be constructed of cedar, redwood, or other decay-resistant wood. Peeling, flacking and chipped coating must be eliminated and surfaces recoated. The property owner is responsible for maintaining the area between the property line and the owner's fence.

(f) Residential fence height maximums.

	Open	Solid	Restrictions
Front yard	4 feet	3 feet	Clear vision area on corner lots; special approval required if in historic district
Side yard in front of principal structure	4 feet	3 feet	Clear vision area on corner lots; special approval required if in historic district
Side and rear yard on a side street (corner lots)	6 feet	6 feet	To half of the required side yard requirement, but not less than 5 feet from the property line.
Rear yard	6 feet	6 feet	Special approval required if in historic district
Side yard behind principal structure	6 feet	6 feet	Special approval required if in historic district

Residential Fence Height

Clear Vision Fence Height
Corner Lot

Sec. 39-12. Height exceptions. [Ord. No. 494, 9-1.4; Ord. No. 985, 9-6-1989; Ord. No. 1188, 2-19-1997; Ord. No. 1199, 9-3-1997; Ord. No. 1222, 8-19-1998; 9-19-2018 by Ord. No. 1746]

(a) The Zoning Board of Appeals may grant a special exception to exceed the height limitations of all zones, up to a maximum height of 80 feet if:

(1) It is for parapet walls not exceeding four feet in height, chimneys, cooling towers, elevator bulkheads, gas tanks, grain elevators, silos, penthouses, stacks, stage towers or scenery lofts, television antennas, tanks, water towers, radio towers, ornamental towers, monuments, cupolas, domes and spires, or other necessary mechanical appurtenances; and

(2) Approval is received from West Michigan Airport Authority, State of Michigan and the Federal Aviation Administration (FAA).

(b) For properties within the WIND Zone District, the height of windmills and spires shall be allowed up to a height of 140 feet, provided that necessary approvals are received from the Federal Aviation Administration.

(c) Structures that receive conditional use approval per Section 39-17.

Sec. 39-13. Building height benchmarks. [Ord. No. 778; Ord. No. 1188, 2-19-1997; Ord. No. 1529, 3-4-2009]

The height of the building shall be determined by measuring the vertical distance from the grade plane to the average height of the highest roof surface. The grade plane is a reference plane representing the average finished ground level adjoining the building and exterior walls. Where the finished ground level slopes away from the exterior walls, the reference plane shall be established by the lowest points within the area between the building and the lot line or, where the lot line is more than six feet from the building, between the building point and a point six feet from the building.

Sec. 39-14. Essential services generally. [Ord. No. 464, § 9-1.4; Ord. No. 617; Ord. No. 1188, 2-19-1997; Ord. No. 1199, 9-3-1997; amended 1-15-2013 by Ord. No. 1622]

(a) Essential services, as defined in this chapter, shall be permitted in all zone districts. This section shall not be deemed to authorize services or uses that are also conditional uses described in Section 39-17 without compliance with Section 39-17.

(b) Any power station, generating plant, or power plant, as defined in Section 39-2 as an essential service, which is proposed for erection, construction, enlargement, or substantial modification, shall be subject to site plan review by the Planning Commission pursuant to Article II. In applying the standards and requirements applicable to site plan review in this chapter, the Planning Commission shall apply those standards and requirements applicable to the zone district where the majority of the essential service is located.

(c) All other essential services in residential zone districts shall be subject to special exception review by the Zoning Board pursuant to this chapter. In applying the standards and requirements applicable to special exception review in this chapter, the Zoning Board shall apply those standards and requirements applicable to the zone district where the majority of the essential service is located, and it may require other conditions pursuant to Section 39-407.

Sec. 39-15. Oil and gas drilling. [Ord. No. 464, § 9-1.4; Ord. No. 1188, 2-19-1997]

Drilling for, and the extraction of, oil, gas, petroleum and hydrocarbons shall be permitted in all zone districts upon compliance with the provisions of Chapter 21; provided, however, that every application pertaining to premises located in a residential zone district shall be referred to the Zoning Board which, after public notice and hearing, shall have the power to impose additional conditions reasonably designed to prevent the creation of a nuisance in the particular zone district.

Sec. 39-16. Access to a public right-of-way. [Ord. No. 587; Ord. No. 1188, 2-19-1997; Ord. No. 1222, 8-19-1998]

No building permit shall be issued for any structure, other than in a planned residential development or the WIND zone district, unless the lot on which the structure is to be erected fronts on a public street or has access thereto by means of a deeded access not less than 20 feet wide. Such access area shall be appurtenant to such lot and shall not be alienable apart

from the base fee. No portion of any such access less than 40 feet in width shall be considered as contributing to the lot size or area requirements of the lot to which access is provided, or to lots which such access abuts.

Sec. 39-17. Conditional uses. [Ord. No. 606; Ord. No. 618; Ord. No. 636; Ord. No. 872; Ord. No. 986, 9-6-1989; Ord. No. 1188, 2-19-1997; Ord. No. 1195, 6-4-1997; Ord. No. 1298, § 2, 5-23-2001; Ord. No. 1502, 4-23-2008; Ord. No. 1527, 2-4-2009; 3-7-2018 by Ord. No. 1727]

Conditional uses, as defined in this section, shall be permitted in all zone districts (except as restricted below) following a hearing by the Zoning Board and subject to such reasonable restrictions as such Board may impose as hereinafter provided. Site or development plan review under Article II of this chapter is not required for conditional uses. Recommendations from the Planning Commission or Community and Neighborhood Services regarding site planning concerns may be included as recommended proposed conditions in the report to the Zoning Board concerning the proposed conditional use as is currently provided by § 39-17(b).

(a) "Conditional uses" defined. "Conditional uses" are those uses which are or could be publicly operated or are traditionally affected with a public interest. Because of the unique characteristics, they cannot be properly classified as permitted uses in any particular district without consideration of the impact of such uses upon adjoining land or public facilities. Conditional uses may include, but are not limited to, the following uses:

(1) Railroad spurs, switching yards, maintenance facilities and traffic-control terminals.

(2) Private cemeteries, mausoleums, crematoriums and memorial gardens.

(3) Private or semipublic nonprofit parks, recreation areas, athletic clubs, sportsman clubs, etc., including structures essential or accessory to such uses.

(4) Community service uses including community centers and administrative, recreational or instructional services, such as Red Cross, YMCA, scouting or day care.

(5) Private, profit-seeking instructional, tutorial or educational facilities.

(6) Communications centers, including television, radio stations.

(7) Personal wireless service towers and supporting facilities, television and radio towers and supporting facilities.

(8) Utility grid wind energy systems, on-site use wind energy systems of greater than 30 kW, and anemometer towers over 100 feet high.

(9) Small cell wireless facilities (as defined in MCLA § 460.1301, et seq.) in any zone district subject to the following: **[Added 6-5-2019 by Ord. No. 1770]**

a. Zoning review or zoning approval is not required for any of the following:

1. Located in the public right-of-way

2. The replacement of a small cell wireless facility with a small cell wireless facility that is not larger or heavier, in compliance with applicable codes.

3. Routine maintenance of a small cell wireless facility, utility pole, or wireless support structure.

4. The installation, placement, maintenance, operation, or replacement of a micro wireless facility that is suspended on cables strung between utility poles or wireless support structures in compliance with applicable codes.

b. For small cell wireless facilities not exempt under Subsection (a)(9)a, a conditional use permit is required and shall be reviewed in the same manner as towers and based on the standards set forth in MCL 460.1317 (2) and (3) and those standards applicable to towers of such height that are not inconsistent with MCLA § 460.1317.

c. Review under Subsection (a)(9)b shall be completed within the time limits imposed by MCLA § 460.1317(2). The Zoning Administrator shall determine when the application is complete under MCLA § 460.1317.

d. Conditional use review and approval is in addition to permit requirements under § 7-62.1.

(b) Application for conditional use. Application for a conditional use shall be filed with the City Clerk on a form prescribed by the Zoning Board. The application shall be accompanied by such plans and data and other information as may be prescribed by the Zoning Board. The City Clerk shall submit copies of such application to the Planning Commission, office of the City Engineer, City Manager, Department of Community and Neighborhood Services, City Assessor, Department of Public Safety and Board of Public Works for review and recommendation.

(c) Zoning Board hearing. The Zoning Board shall hold a hearing on such application, such hearing to be held within 90 days of the initial filing with the City Clerk, and shall, within a reasonable time following such hearing, grant or deny such application. The Zoning Board shall hold a formal public hearing on all such applications and shall give notice thereof as provided in Section 39-408. If the request involves placement of a tower or antenna on public property, it shall be acted upon within the time limits imposed by state or federal law.

(d) Standards. If the Zoning Board finds from reasonable evidence that all of the following facts and conditions exist, it shall authorize the conditional use:

(1) That the applicant has proven that the proposed use and proposed location would not result in a violation of the terms of Section 39-74, as the standards therein set forth apply to the applicant's proposed use at the proposed location.

(2) That the conditional use will not cause substantial damage to the value of other property in the neighborhood in which it is to be located.

(3) That the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.

(4) That adequate utilities, access roads, drainage and other required site improvements have been or are being provided.

(5) That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.

(6) Except for the conditions and requirements applicable to height, area and off-street parking, the conditional use shall in all other respects conform to the applicable regulations of the district in which it is located.

(e) Conditions and guarantees. Prior to the granting of any conditional use, the Zoning Board shall stipulate such conditions and restrictions upon the establishment, location, construction, maintenance and operation of the conditional use as shall be necessary to promote the public health, safety and general welfare of the City, and to insure compliance with the standards and requirements specified in Subsection (d) of this section. In all cases in which conditional uses are granted, the Zoning Board shall further require such evidence and guarantees as it may deem necessary and proper as proof that the conditions stipulated in connection therewith are being and will be met.

(f) Except for the uses listed in Subsection (a)(1) through (7) of this section, nothing herein shall be deemed to allow approval as a conditional use for any use which is explicitly permitted in any of the various existing zone districts.

(g) Additional requirements for towers:

(1) Purpose; goals. The purpose of this section is to establish general guidelines for the siting of towers and antennas. The goals of this section are to:

a. Strongly encourage the location of towers in nonresidential areas and minimize the total number of towers throughout the City;

b. Encourage the joint use of new and existing tower sites;

c. Encourage users of towers and antennas to locate and configure them, to the extent possible, in areas where the adverse impact on the community is minimized;

d. Enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently.

(2) Definitions. As used in this section, the following terms shall have the meanings indicated:

ANTENNA — Any exterior apparatus designed for telephonic, radio, or television communications through the sending and/or receiving of electromagnetic waves. For purposes of this section, "antenna" shall not include citizens' band or ham radio transmission equipment that is used for noncommercial purposes.

CO-LOCATION — The use of a single tower and/or site by more than one provider.

FAA — The Federal Aviation Administration.

FCC — The Federal Communications Commission.

HEIGHT — When referring to a tower or other structure, the distance measured from ground level to the highest point on the tower or other structure, even if said highest point is an antenna.

PERSONAL WIRELESS SERVICE — Commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services as defined in the Telecommunications Act of 1996.

PROVIDER(S) — An entity that provides personal wireless service and other forms of communication service including, but not limited to, radio and television.

TOWER — Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular and personal communication service (PCS) telephone towers, and the like.

(3) Additional conditional use application requirements. In addition to the information otherwise requested by the Zoning Board for a conditional use permit application, the following items shall also be required for an application under this section:

a. A map showing the service area of the proposed tower facility and an explanation of the need for the facility.

b. A map showing the locations and service areas of other tower facilities operated by the applicant and those that are proposed by the applicant which are located within the City or any adjoining Township.

c. An application shall be signed by the property owner and applicant and state that:

1. The owner and applicant agree to allow for the potential co-location of additional communication equipment by other providers on the applicant's structure or within the same location; and

2. The owner and applicant agree to comply with all of the conditions imposed by this ordinance and the conditional use permit, including but not limited to removal of the tower and all supporting facilities as required by this section if use of the site is discontinued.

(4) Additional procedures and required conditions.

a. Prior to making application, all personal wireless service providers and other providers shall inquire with Community and Neighborhood Services regarding the availability of additional antenna equipment capacity on existing towers.

b. If a provider finds adequate space on an existing tower for their antenna facilities, the location of such additional antenna equipment on said tower facility shall be a permitted use, without further Zoning Board approval.

c. Providers shall locate their antenna equipment on existing towers unless the Zoning Board determines that existing towers are at capacity, the equipment is incompatible with other equipment on the existing towers, or existing towers are not located so as to meet the provider's reasonable requirements. If a provider's equipment cannot be co-located on existing towers, then a provider shall make every effort to locate their equipment on existing publicly or privately owned tall structures.

d. If a provider finds a suitable existing tall structure on or within which it may locate its equipment, the Zoning Board may waive any required condition of this section if it determines that waiver will not adversely affect the health, safety, and general welfare of the public at large, with special attention paid to the adjoining neighborhood thereof.

e. Towers of 100 feet or more in height may only be located [in] the C-2 Highway Commercial District, C-4 Regional Shopping Center District, I-1 Industrial District, and the I-2 Industrial District. Towers of less than 100 feet in height may be located in any I or C District. All towers that require approval by the Zoning Board of Appeals shall be prohibited from the M-40 Corridor/South End Overlay Zone District area as described in Section 39-341(a).

f. All towers and antennas must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the federal government with the authority to regulate towers and antennas. If such standards and regulations change, all providers must certify that the facility meets those revised standards. Providers shall certify that they meet FCC requirements for radiation emissions prior to receiving the initial facility building permit and shall recertify annually that they meet all FCC requirements.

g. To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable local building codes and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. If upon inspection, it is determined by the City Building Inspector that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall bring such tower into compliance with such standards within a reasonable time frame determined by said City Building Inspector.

h. All towers shall be designed such that a minimum of two additional antenna facilities comparable to that planned by an applicant provider shall be available to other providers at a reasonable cost. All providers shall demonstrate they have an agreement from the property owner to provide

adequate ground area, access, and utility connections for additional users of the tower, again at reasonable cost.

i. Approval of a conditional use does not authorize a provider to utilize the public right-of-way for related utility or communication needs not shown on the plan.

j. Upon the cessation of use of the proposed tower by all providers for a period exceeding 12 months, the owner of said tower shall be required to remove the tower and all other aboveground installations in their entirety within six months. Failure to remove the improvements is declared unlawful and shall be deemed a nuisance per se and shall be subject to enforcement action under Section 1-10 of this Ordinance Code. The Zoning Board may require the owner to post a bond or other form of assurance that towers will be promptly removed in accordance with this section.

k. No signage or logos shall be placed above 10 feet in height on any tower or any accessory building.

l. Towers shall be enclosed by security fencing not less than six feet in height and shall also be equipped with an appropriate anti-climbing device; provided, however, that the Zoning Board may waive such requirements, as it deems appropriate.

m. The Zoning Board shall have the discretion to choose the type of tower to be constructed by the applicant. Currently, tower types are limited to monopole, lattice, and guy-wire supported structures.

n. The owner of the tower and any accessory buildings shall comply with the following landscaping requirements:

1. Towers and accessory buildings (the "facilities") shall be landscaped with a buffer of plant materials that effectively screens view of the facilities (except for the tower) from adjacent property. The standard buffer shall consist of a landscaped strip at least six feet wide around the perimeter of the facilities. Landscaping shall consist of evergreen trees and shrubs, or other suitable landscape materials planted at intervals sufficient to effectively screen the facilities.

2. The Zoning Board may reduce or waive the landscaping requirements only if it determines that the visual impact of the facilities upon surrounding properties will be minimal or the lot size and existing natural growth on the property or adjacent properties is a sufficient buffer.

3. Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible.

4. The Zoning Board may incorporate additional landscaping and screening requirements, including any recommended by the Planning Commission, to provide an adequate screening or buffer.

o. Towers and all accessory buildings shall abide by the applicable setback requirements for principal buildings in the zone district in which the tower is located. Additionally, all towers shall be set back from residentially used property a minimum distance equal to the height of the tower.

p. Providers shall cooperate in the investigation of complaints that an antenna system causes interference with other electronic devices. If deemed responsible for the interference, a provider shall rectify the interference or provide reasonable relief for the affected parties.

q. Aesthetics and lighting:

1. Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color, so as to reduce visual obtrusiveness.

2. At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend the tower facilities to the natural setting and built environment.

3. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.

4. Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the owner shall install lighting as approved by the Zoning Board based upon a design that will cause the least disturbance to surrounding views.

(5) Conditional use permit limitations:

a. Any tower structure that does not contain any active antennas for 365 consecutive days shall receive a written notice by the Building/Zoning Administrator to remove said tower and accessory equipment from the property. The owner or the owner's agent shall reply within 30 days of the date of the Building/Zoning Administrator's notice and shall state their schedule to comply with the order to remove the tower, or otherwise comply with the requirements of this section. Unless otherwise approved by the Zoning Board of Appeals, the tower and accessory equipment shall either then be removed from the property or one or more active antennas shall have been added to the tower within 90 days of the date of the Building/Zoning Administrator's notice.

b. A conditional use permit shall terminate if the permitted tower facility is not constructed and placed into use within one year of the date of the Zoning Board's approval, provided that the Zoning Administrator may extend the permit for six months if construction has commenced before expiration of the initial year.

c. The owner and operator of a communication tower facility shall and does, upon approval of this conditional use permit, agree to indemnify, protect, defend and hold harmless the City, its Council members, Zoning Board members, officers, employees, agents and representatives, from and against any and all liabilities, losses, damages, demands, claims and costs, including court costs and attorneys' fees (collectively, "liabilities") incurred by the City arising, directly or indirectly, from:

1. The City's approval and issuance of this conditional use permit;

2. The City's approval or issuance of any permit or action, whether discretionary or nondiscretionary, in connection with the use contemplated herein;

3. The applicant's installation, maintenance, and operation of the facility including, without limitation, any and all liabilities arising from the emission of electromagnetic fields or other energy waves or emissions.

The owner's and operator's compliance with this section is an express condition of the conditional use permit and this provision shall be binding on the owner and operator and their successors and assigns.

d. The applicant shall maintain the tower facility to standards that may be imposed by the City at the time of the granting of a permit. Such maintenance shall include, but shall not be limited to, maintenance of the paint, structural integrity and landscaping. If the applicant fails to maintain the facility, the City may undertake the maintenance at the expense of the applicant or terminate the conditional use permit, or both, at its sole option.

e. The applicant shall notify the City of all changes in ownership or operation of the facility within 60 days of the change.

(h) Utility grid wind energy system, on-site use wind energy system of greater than 30 kW, and anemometer towers over 100 feet high. A utility grid wind energy system, on-site use wind energy system of greater than 30 kW, and anemometer towers over 100 feet high shall meet the following standards:

(1) Property setbacks.

a. Anemometer tower setbacks shall be the distance equal to the height of the tower from property lines.

b. Utility grid and on-site use wind energy system setbacks shall be at least equal to the height of the tower including the top of the blade in its vertical position from property lines or from the lease unit boundary, whichever is less.

c. An operations and maintenance office building, a substation, or ancillary equipment shall comply with the property setback requirements of the respective zoning district. Overhead transmission lines and power poles shall comply with the setback and placement requirements applicable to public utilities.

(2) Sound pressure level. The sound pressure level shall not exceed 55 dB(A) measured at the property lines or the lease unit boundary, whichever is farther from the source of the noise. This sound pressure level shall not be exceeded for more than three minutes in any hour of the day. If the ambient sound pressure level exceeds 55 dB(A), the standard shall be ambient dB(A) plus five dB(A).

(3) Safety. Shall be designed to prevent unauthorized access to electrical and mechanical components and shall have access doors that are kept securely locked at all times when service personnel are not present. All spent lubricants and cooling fluids shall be properly and safely removed in a timely manner from the site of the wind energy system. A sign shall be posted near the tower or operations and maintenance office building that will contain emergency contact information. Signage placed at the access drive entrance shall warn visitors about the potential danger of falling ice. The minimum vertical blade tip clearance from grade shall be 30 feet for a wind energy system employing a horizontal axis rotor.

(4) Construction codes, towers, and interconnection standards shall comply with all applicable state construction and electrical codes and local building permit requirements.

(5) Preapplication permits. Required permits and evidence of compliance with the following federal, state and local statutes shall be submitted as required before approval of a conditional use permit:

a. Utility infrastructure. The infrastructure shall comply with Federal Aviation Administration (FAA) requirements, the Michigan Airport Zoning Act (Public Act 23 of 1950 as amended, MCLA § 259.431 et seq.), the Michigan Tall Structures Act (Public Act 259 of 1959 as amended, MCLA § 259.481 et seq.), and local jurisdiction airport overlay zone regulations. The minimum FAA lighting standards shall not be exceeded. All tower lighting required by the FAA shall be shielded to the extent possible to reduce glare and visibility from the ground. The tower shaft shall not be illuminated unless required by the FAA. Utility grid wind energy systems shall comply with applicable utility, Michigan Public Service Commission, and Federal Energy Regulatory Commission interconnection standards.

b. Environment. The site plan and other documents and drawings shall show:

1. Mitigation measures to minimize potential impacts on the natural environment including, but not limited to, wetlands and other fragile ecosystems, historical and cultural sites, and antiquities, as identified in an environmental analysis.

2. Compliance with applicable parts of the Michigan Natural Resources and Environmental Protection Act (Act 451 of 1994, MCLA § 324.101 et seq.).

(6) Performance security. The Zoning Board may require security for the applicant's performance in the form of a letter of credit, deposit or bond to ensure that the applicant repairs any damage to public infrastructure or property caused by construction of the wind energy system.

(7) Utilities. Power lines shall be placed underground, when feasible. All aboveground lines, transformers, or conductors shall comply with the Avian Power Line Interaction Committee published standards to prevent avian mortality.

(8) The following standards apply only to utility grid wind energy systems:

a. Visual impact. Utility grid wind energy system projects shall use tubular towers and all utility grid wind energy systems in a project shall be finished in a single, nonreflective matte finished color. A project shall be constructed using wind energy systems of similar design, size, operation, and appearance throughout the project. No lettering, company insignia, advertising, or graphics shall be on any part of the tower, hub, or blades. Nacelles may have lettering that exhibits the manufacturer's and/or owner's identification. The applicant shall avoid state or federal scenic areas and significant visual resources listed in the local unit of government's plan.

b. Avian and wildlife impact. Site plan and other documents and drawings shall show mitigation measures to minimize potential impacts on avian and wildlife.

c. Shadow flicker. Site plan and other documents and drawings shall show mitigation measures to minimize potential impacts from shadow flicker.

d. Decommissioning. A Zoning Board approved decommissioning plan indicating the:

1. Anticipated life of the project;

2. Estimated decommissioning costs net of salvage value in current dollars;

3. Method of ensuring that funds will be available for decommissioning and restoration; and

4. Anticipated manner in which the project will be decommissioned and the site restored.

e. Complaint resolution. A Zoning Board approved process to resolve complaints from nearby residents concerning the construction or operation of the project.

f. Electromagnetic interference. No utility grid wind energy system shall be installed in any location where its proximity to existing fixed broadcast, retransmission, or reception antennae for radio, television, or wireless phone or other personal communication systems would produce electromagnetic interference with signal transmission or reception unless the applicant provides a replacement signal to the affected party that will restore reception to at least the level present before operation of the wind energy system. No utility grid wind energy system shall be installed in any location within the line of sight of an existing microwave communications link where operation of the wind energy system is likely to produce electromagnetic interference in the link's operation unless the interference is insignificant.

(9) Plan requirements.

a. Utility grid wind energy system, on-site use wind energy system of greater than 30 kW, and anemometer towers over 100 feet high. All plans shall include the following information:

1. Documentation that sound pressure level, construction code, tower, interconnection (if applicable), and safety requirements have been reviewed and the submitted site plan is prepared to show compliance with these issues.

2. Proof of the applicant's public liability insurance for the project.

3. A copy of that portion of all the applicant's lease(s) with the landowner(s) granting authority to install the anemometer tower and/ or utility grid wind energy system; legal description of the property(ies), lease unit(s); and the site plan shows the boundaries of the leases as well as the boundaries of the lease unit boundary.

4. The phases, or parts of construction, with a construction schedule.

5. The project area boundaries.

6. The location, height, and dimensions of all existing and proposed structures and fencing.

7. The location, grades, and dimensions of all temporary and permanent on-site and access drives from the nearest street.

8. All new infrastructure above ground related to the project.

9. A copy of Manufacturers' Material Safety Data Sheet(s) which shall include the type and quantity of all materials used in the operation of all equipment including, but not limited to, all lubricants and coolants.

b. Utility grid wind energy systems only. All plans for utility grid wind energy systems shall also include the following information:

1. A copy of a noise modeling and analysis report and the site plan shall show locations of equipment identified as a source of noise which is placed, based on the analysis, so that the wind energy system will not exceed the maximum permitted sound pressure levels. The noise modeling and analysis shall conform to IEC 61400 and ISO 9613. After installation of the utility grid wind energy system, sound pressure level measurements shall be done by a third party, qualified professional according to the procedures in the most current version of ANSI S12.18. All sound pressure levels shall be measured with a sound meter that meets or exceeds the most current version of ANSI S1.4 specifications for a Type II sound meter. Documentation of the sound pressure level measurements shall be provided to the Department of Community and Neighborhood Services within 60 days of the commercial operation of the project.

2. A visual impact simulation showing the completed site as proposed on the submitted site plan. The visual impact simulation shall be from four viewable angles.

3. A copy of an environment analysis by a third-party qualified professional to identify and assess any potential impacts on the natural environment including, but not limited to, wetlands and other fragile ecosystems, historical and cultural sites, and antiquities. The applicant shall take appropriate measures to minimize, eliminate or mitigate adverse impacts identified in the analysis, and shall show those measures on the site plan. The applicant shall identify and evaluate the significance of any net effects or concerns that will remain after mitigation efforts.

4. A copy of an avian and wildlife impact analysis by a third-party qualified professional to identify and assess any potential impacts on wildlife and endangered species. The applicant shall take appropriate measures to minimize, eliminate or mitigate adverse impacts identified in the analysis, and shall show those measures on the site plan. The applicant shall identify and evaluate the significance of any net effects or concerns that will remain after mitigation efforts. (Sites requiring special scrutiny include wildlife refuges, other areas where birds are highly concentrated, bat hibernacula, wooded ridge tops that attract wildlife, sites that are frequented by federally and/or state-listed endangered species of birds and bats, significant bird migration pathways, and areas that have landscape features known to attract large numbers of raptor. At a minimum, the analysis shall include a thorough review of existing information regarding species and potential habitats in the vicinity of the project area. Where appropriate, surveys for bats, raptors, and general avian use should be conducted. The analysis shall include the potential effects on species listed under the federal Endangered Species Act and Michigan's Endangered Species Protection Law.[4] The analysis shall indicate whether a post-construction wildlife mortality study will be conducted and, if not, the reasons why such a study does not need to be conducted.)

5. A copy of a shadow flicker analysis at occupied structures to identify the locations of shadow flicker that may be caused by the project and the expected durations of the flicker at these locations from sunrise to sunset over the course of a year. The site plan shall identify problem areas where shadow flicker may affect the occupants of the structures and show measures that shall be taken to eliminate or mitigate the problems.

6. A second site plan, which includes all the information found in Section 39-17(h)(8)(d) of this chapter, and shows the restoration plan

4. Editor's Note: See 16 U.S.C.A. § 1531 et seq. and MCLA § 324.36501 et seq., respectively.

for the site after completion of the project which includes the following supporting documentation:

(a) The anticipated life of the project.

(b) The estimated decommissioning costs net of salvage value in current dollars.

(c) The method of ensuring that funds will be available for decommissioning and restoration.

(d) The anticipated manner in which the project will be decommissioned and the site restored.

7. A description of the complaint resolution process developed by the applicant to resolve complaints from nearby residents concerning the construction or operation of the project. The process may use an independent mediator or arbitrator and shall include a time limit for acting on a complaint. The process shall not preclude the local government from acting on a complaint. During construction the applicant shall maintain and make available to nearby residents a telephone number where a project representative can be reached during normal business hours.

Sec. 39-17.1. Review of special land uses. [Added 5-14-2014 by Ord. No. 1628]

(a) Intent and purpose.

(1) Unless otherwise designated for review by the Zoning Board of Appeals, an application for approval of any use designated in this Chapter 39 as a special land use, special use or special exception (collectively referred to as a "special land use") shall be reviewed by the Planning Commission because of its unique characteristics that require special consideration in relation to the welfare of adjacent properties and the community as a whole. The Planning Commission shall review an application for a special land use based on:

a. The criteria set forth in this section; and

b. The criteria set forth in other sections applicable to a specific special land use.

(2) These standards are designed to allow development and investment, but at the same time maintain adequate provision for the protection of the health, safety, and general welfare of the community.

(b) Procedures. Notice of hearings on an application for a special land use and special uses shall be given as provided in Section 39-4.1.

(1) The notice shall indicate that a public hearing on the special land use request may be requested by any property owner or the occupant of any structure located within 300 feet of the property being considered for a special land use, regardless of whether the property or occupant is located in the zoning jurisdiction.

(2) At the initiative of the Planning Commission or upon the request of the applicant, a real property owner whose real property is assessed within 300 feet of the property, or the occupant of a structure located within 300 feet of the property, the Planning Commission shall conduct a public hearing before making a decision on the request.

(3) All special land use review procedures shall concurrently follow the requirements for a Planning Commission site plan review pursuant to the requirements of Article II of this Chapter 39.

(c) General approval standards. The applicant shall establish compliance with the following standards to obtain approval of a special land use application, in addition to the criteria set forth in other sections applicable to a specific special land use. The proposed special land use and its location shall:

(1) Be designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and not change the essential character of the area in which it is proposed.

(2) Be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewage facilities and, if applicable, schools.

(3) Not create excessive additional burden upon, or requirements for, public facilities and services at public cost.

(4) Not involve uses, activities, processes, materials, and equipment or conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, electrical or electromagnetic interference or odors.

(5) Be compatible and in accordance with the goals, objectives and policies of the Master Plan and promote the intent and purpose of the zoning district in which it is proposed to be located.

(6) Comply with all applicable licensing ordinances.

(d) Planning Commission action, conditions and revocation. The Planning Commission may deny, approve, or approve with conditions an application for a special land use.

(1) The request for approval shall be approved if the request is in compliance with the standards stated in the Zoning Ordinance, the conditions imposed under the Zoning Ordinance, other applicable ordinances, and state and federal statutes.

(2) The decision on a special land use shall be incorporated in a statement of findings and conclusions relative to the special land use which specifies the basis for the decision and any conditions imposed.

(3) The Planning Commission may impose conditions, restrictions, safeguards or requirements as necessary to protect the health, safety and general welfare of the community, for the protection of individual property rights, and for insuring that the intent and objectives of this section will be observed.

(4) The Planning Commission may revoke a special land use approval based on a material breach of any condition, restriction, safeguard, or requirement.

Sec. 39-17.2. Special land use standards for indoor archery and firearms ranges. [Added 5-14-2014 by Ord. No. 1628]

Indoor archery and firearm ranges are allowed in certain zone districts as special land uses, subject to the provisions of Section 39-17.1 and this Section 39-17.2.

(1) Application. The application for the special land use and site plan review shall be on a form available from the City Clerk's office. The applicant shall attach to the application:

(a) A certification from the indoor range equipment manufacturer that the equipment meets all applicable federal, state and local regulations for archery and shooting ranges and indicates the size or type of weapon the range is designed for. The indoor range equipment includes all baffles and walls designed to contain arrows and bullets or other projectiles.

(b) A certification from the project architect and/or professional engineer that the facility meets the current requirements for all applicable federal, state and local regulations for archery and shooting ranges.

(2) Standards for approval. The following standards apply to an indoor archery and firearms shooting range:

(a) The interior of the archery or firearm range shall be impenetrable to the discharge of any arrow or bullet or other projectile shot or discharged in the range.

(b) The audible noise from the discharge of any firearm shall comply with the requirements of Section 19-5 of the City Code.

(c) The range shall have an on-site lead cleanup system and HVAC filtration system in compliance with all federal and state regulations.

(d) There shall be a minimum lot area of 30,000 square feet.

(e) Required yard areas shall be the same as permitted uses in the district, except where a lot in the I-1 District has an average width of less than 200 feet, the required side yard shall not be less than 20 feet.

(f) Hours of operation: 7:00 a.m. to 9:00 p.m.

(3) Standards for site plan review. The applicant shall concurrently submit a site plan for an indoor archery or firearm range which shall comply with the requirements of Article II of this Chapter 39.

(4) Conditions for occupancy and operation. In addition to compliance with the Planning Commission's decision on the special land use application and site plan, the property shall not be used as an indoor archery or firearm range unless or until:

(a) The applicant provides certification from the contractor or installer that the equipment described in the application has been installed and complies with all

manufacturer and architectural directions, requirements and specifications and any required condition from the Planning Commission.

(b) The range operator provides certification that the facility will at all times comply with all applicable federal, state and local regulations, will meet or exceed all commonly accepted shooting range safety and design practices, and will be operated in a manner that protects the health, safety and welfare of the general public.

(c) The range operator shall only allow weapons of the size or type the range is designed for as set forth in the manufacturer's certificate.

(d) The applicant or range operator shall not modify the indoor range equipment, on-site lead collection system or HVAC system without first obtaining amended special land use approval.

(e) The range owner shall obtain and maintain a license as required by Chapter 17.

(f) The range owner shall annually, at the time the range owner applies to renew its license, provide certification that the facility will at all times comply with all applicable federal, state and local regulations, will meet or exceed all commonly accepted shooting range safety and design practices, and will be operated in a manner that protects the health, safety and welfare of the general public.

(g) The range shall be subject to inspection upon request by the City to verify ongoing compliance with the requirements of this section.

Sec. 39-17.3. Special land use standards for light assembly uses in specific commercial zone districts. [Added 6-4-2014 by Ord. No. 1630]

Light assembly uses are allowed in the C-1, C-2 and C-4 Zone Districts as special land uses, subject to the provisions of Section 39-17.1 and this Section 39-17.3.

(1) Application. The application for the special land use and site plan review shall be on a form available from the City Clerk's office.

(2) Standards for approval. The following standards apply to light assembly uses in a specified zone district:

(a) The use shall occur in an existing building.

(b) None of the uses listed in Section 39-72(a) shall be allowed.

(c) The total enclosed area of the use shall not exceed 10,000 square feet.

(d) The light assembly use must occur at least 25 feet from all public rights-of-way and/or private pedestrian connected walkways, and 25 feet from all shared property lines with residential zoning districts; or it shall be demonstrated that the use would not be an intrusion into the pedestrian/shopping continuity of a commercial area and would not create a negative impact on adjacent residential uses.

(e) All activities, including storage, shall be conducted entirely within the interior of the building. No outside storage is permitted.

(f) In addition to regular United States postal letter carrier service, the number of allowable deliveries and pickups per day of goods and materials used and/or produced in the operation of the business shall be approved by the Planning Commission. Said deliveries and pickups of mail and packages shall be completed by the United States Postal Service and by alternative private delivery services. Deliveries and pickups shall not require a vehicle larger than a step-type van.

(g) The light assembly and associated accessory uses shall not produce any noise, vibrations, odors, or heat that are detectable beyond the property line.

(h) The intent of these standards is to maintain the character of the district, and assure visual connectedness and public safety for those within and outside the business.

(3) Standards for site plan review. The applicant shall concurrently submit a site plan for a light assembly use which shall comply with the requirements of Article II of this Chapter 39. In addition, a site plan for a light assembly use located in the C-1 Commercial District shall comply with the following additional requirements:

(a) The exterior design of the building shall be compatible with the character of the Neighborhood Commercial District in which it is located, as perceived from adjacent public sidewalks and streets.

(b) Traditional storefront design, window area, display windows and the building character shall be compatible with neighboring commercial storefronts with no blank facades along the sidewalk exceeding 25 feet in length. The interior design shall not negate the traditional exterior storefront appearance.

(c) The intent of these standards is to maintain the character of the district, and assure visual connectedness and public safety for those within and outside the business.

Sec. 39-17.4. Fair housing accommodation policy.[5] [Added 6-17-2015 by Ord. No. 1652]

(a) Purpose. It is the policy of the City of Holland, pursuant to the Federal Fair Housing Act and the Michigan Elliot Larsen Civil Rights Act (hereafter "fair housing laws") to provide individuals with disabilities reasonable accommodation in rules, practices and procedures to ensure equal access to housing and to facilitate the development of housing for individuals with disabilities. This section is intended to provide a procedure for individuals with disabilities and developers of housing for individuals with disabilities to seek relief from the application of zoning regulations, practices and procedures to further the City's compliance with fair housing laws and provide greater opportunities for the development of critically needed housing for individuals with disabilities.

5. Editor's Note: See also Ch. 14, Art. III, Fair Housing.

(b) Definitions. For purposes of this section, the following terms shall have the meanings ascribed to them:

ELIGIBLE PERSON — A person who is an individual with a disability, his or her representative, or a developer or provider of housing for individuals with disabilities.

INDIVIDUAL WITH A DISABILITY — Someone who has a physical or mental impairment that limits one or more major life activities; anyone who is regarded as having such impairment; or anyone with a record of such impairment, but such term does not include current, illegal use of, or addiction to, a controlled substance (as defined in 21 U.S.C. § 802).

PERSON — An individual, partnership, limited-liability company, corporation or other entity.

REASONABLE ACCOMMODATION — Providing eligible persons with flexibility in the application of zoning regulations, practices and procedures, or even granting variances from certain requirements, when it is necessary to eliminate barriers to equal housing opportunities.

REQUEST FOR REASONABLE ACCOMMODATION — A request by any individual with a disability, his or her representative, a developer or provider of housing for individuals with disabilities, when the application of a zoning regulation, policy, practice or procedure acts as a barrier to fair housing opportunities.

(c) Notice of fair housing accommodations policy, assistance available.

(1) Notice of the availability of reasonable accommodation shall be prominently displayed at public information counters in Community and Neighborhood Services, advising the public of the availability of the procedure for eligible individuals. Forms for requesting reasonable accommodation shall be available to the public in Community and Neighborhood Services.

(2) The notice shall indicate that Community and Neighborhood Services will provide an applicant with assistance in filing a request for reasonable accommodation or an appeal from a decision on such request so that the process is accessible.

(d) Requests for reasonable accommodation.

(1) The Zoning Board of Appeals shall have the jurisdiction and power to grant a special exception from the non-use requirements of the Zoning Ordinance where necessary to provide reasonable accommodation to allow individuals with disabilities to have reasonable access to housing in the City of Holland.

(2) A special exemption is not necessary for state-licensed adult foster care homes to the extent that state law preempts local zoning and may exist legally without the special exception.

(3) An eligible person may request a reasonable accommodation in zoning regulations, practices and procedures.

(4) Requests for reasonable accommodation shall be made in writing, filed in the Office of the City Clerk and provide the following information:

a. Name and address of the individual(s) requesting reasonable accommodation;

b. Name and address of the property owner(s) (if different);

c. Address and parcel number of the property for which accommodation is requested;

d. Evidence that the request is for an individual with a disability under fair housing laws;

e. Description of the requested accommodation and the regulation(s) or procedure for which accommodation is sought;

f. Reason that the requested accommodation may be necessary for the individual(s) with the disability to use and enjoy the dwelling;

g. All alternative accommodations and other options that have been considered by the applicant;

h. Evidence of whether the property is within 500 feet of another property granted accommodations for use by five or more unrelated persons under this section; and

i. The written consent of the property owner.

(5) Any information identified by an applicant as confidential shall be retained in a manner so as to respect the privacy rights of the applicant and shall not be made available for public inspection except as may be required by the Michigan Freedom of Information Act.

(6) A request for reasonable accommodation in regulations, practices and procedures may be filed at any time that the accommodation may be necessary to ensure equal access to housing. A reasonable accommodation does not affect an individual's obligations to comply with other applicable regulations not at issue in the requested accommodation.

(7) Requests for reasonable accommodation shall be reviewed by the Zoning Board of Appeals using the criteria set forth in Subsection (e).

(8) Notice of the application and hearing shall be given in accordance with Section 1-6.

(e) Standards of review. The written decision by the Zoning Board of Appeals shall be consistent with fair housing laws and based on some or all of the following factors:

(1) Whether the housing, which is the subject of the request for reasonable accommodation, will be used by an individual with disabilities protected under fair housing laws;

(2) Whether the requested accommodation is necessary to make housing available to an individual with disabilities under the fair housing laws;

(3) Whether the requested accommodation would impose an undue financial or administrative burden on the City;

(4) Whether the requested accommodation would require a fundamental alteration in the nature of the City's zoning program;

(5) Whether there is an alternative accommodation which may provide an equivalent level of benefit to the applicant;

(6) Whether the recovery residence is state licensed as a substance use disorder facility;

(7) Whether the recovery residence is a certified member of an established entity that conducts its own inspections and has its own standards for the benefit of occupants, e.g., CARF International, National Alliance for Recovery Residences (NARR) or any equivalent entity having similar requirements for membership;

(8) Whether the property should be managed by a person living on site;

(9) Whether and how the requested accommodation will benefit the people in the program; and

(10) Whether the property is within 500 feet of another property granted accommodations for use by five or more unrelated persons under this section.

(f) Written decisions, notice to applicant.

(1) The Zoning Board of Appeals shall issue a decision on a request for reasonable accommodation within 45 days from the date a complete application has been filed with the Clerk and may either grant, grant with modifications or conditions, or deny a request for reasonable accommodation in accordance with the criteria in Subsection (e).

(2) If necessary to reach a determination on the request for reasonable accommodation, the Zoning Board of Appeals may request further information from the applicant consistent with fair housing laws, specifying in detail the information that is required. In the event that a request for additional information is made, the forty-five-day period to issue a decision is stayed until the applicant completely responds to the request.

(3) If the Zoning Board of Appeals fails to render a decision on the request for reasonable accommodation within the 45 days from the date a complete application has been filed with the Clerk, the request shall be deemed granted.

(4) The written decision of the Zoning Board of Appeals shall explain in detail the basis of the decision, including its findings on the criteria set forth in Subsection (e). The decision shall give notice of the applicant's right to appeal and to request reasonable accommodation in the appeals process as set forth below. A copy of the decision shall be provided to the applicant or sent to the applicant by first class mail.

(5) The written decision of the Zoning Board of Appeals shall be final unless an applicant appeals it to the circuit court.

(g) Effect of zoning pending a determination. While a request for reasonable accommodation is pending, all zoning regulations, practices and procedures otherwise applicable to the property that is the subject of the request shall remain in full force and effect.

(h) Appeals. An applicant may appeal a decision by the Zoning Board of Appeals as provided by statute.

Sec. 39-18. Aircraft landing as principal or accessory use. [Ord. No. 821; Ord. No. 1188, 2-19-1997]

(a) For purposes of this section, "aircraft" shall be defined to include, but shall not be limited to, any airplane, helicopter or similar motorized craft constructed or designed for the purpose of air travel or transportation. "Aircraft" shall further include the customary appurtenances and equipment associated with craft constructed or designed for purposes of air travel or transportation.

(b) Nothing contained herein shall prohibit the use of any property for airport purposes and its accessory uses which lawfully existed prior to February 9, 1983, or uses which are or may be defined as conditional uses pursuant to Subsection (a) of Section 39-17. Nothing contained herein shall prevent any course of conduct by a pilot or any other person, either on the ground or in the air, which is calculated to meet emergency conditions and best cope with an imminent danger which threatens life or property, either on the ground or in the air, when such emergency has arisen as a result of the operation of any type of aircraft.

(c) This section shall not be deemed to prohibit or restrict the use of aircraft, including landing and takeoff operations, involved in search and rescue, medical or emergency evacuation, traffic control or similar uses under direction of governmental law enforcement or military agencies.

(d) No lot, or any portion thereof, shall be used, designed or constructed for the purpose of the landing of aircraft, as a principal or accessory use, in any zone district unless approved by the Zoning Board, as a special exception, after a public hearing thereon and compliance with the following criteria:

(1) Evidence by the applicant that the proposed use will not violate the performance criteria set forth in Subsection (a) of Section 39-84;

(2) Evidence by the applicant that the approach and take-off areas necessary for the operation of the aircraft comply with federal and state statutes, including the regulations and administrative rulings promulgated under said statutes, and that the proposed approach and take-off areas will not impair the reasonable use and occupancy of adjacent and adjoining property; and

(3) Evidence by the applicant that the landing site and the immediate and adjacent area affected by the wind velocity created by approach or take-off of aircraft will be developed and maintained with an impervious surface or grass covering so as

to prevent the nuisance of dust or dirt to adjoining premises, and further evidence that the landing site affords reasonable margins of safety to persons through fencing, open visibility area or a combination thereof.

The Zoning Board may attach conditions to the approval of a special exception requiring the applicant to continue to comply with the levels of performance represented to the Zoning Board by the applicant in the written application or in representations given to the Zoning Board during the hearing process.

Sec. 39-18.1. On-site use wind energy systems and anemometer towers of 100 feet or less. [Ord. No. 1528, 2-4-2009]

An on-site use wind energy system is a permitted accessory use in all zone districts and shall meet the following standards:

(a) Designed to primarily serve the needs of a home, farm, or business located on the same site as the on-site use wind energy system.

(b) Shall have a maximum power generation of 30 kW.

(c) Property setback.

(1) For stand-alone wind energy systems, the distance between an on-site use wind energy system and the owner's property lines shall be equal to or greater than the height of the wind energy system tower including the top of the blade in its vertical position.

(2) For wind energy systems mounted on a principal or accessory structure, the distance between an on-site use wind energy system and the owner's property lines shall be equal to or greater than the height of the wind energy system tower including the top of the blade in its vertical position as measured from where the system is attached to the structure.

(3) The distance between an anemometer tower and the owner's property lines shall be equal to the height of the tower.

(4) No part of the wind energy system structure, including guy wire anchors, may extend closer than 10 feet to the owner's property lines.

(d) Sound pressure level. On-site use wind energy systems shall not exceed 55 dB(A) at any property line. This sound pressure level may be exceeded during short term events such as utility outages and/or severe wind storms. If the ambient sound pressure level exceeds 55 dB(A), the standard shall be ambient dB(A) plus five dB(A).

(e) Electromagnetic interference. No on-site wind energy system shall be installed in any location where its proximity to existing fixed broadcast, retransmission, or reception antennae for radio, television, or wireless phone or other personal communication systems would produce electromagnetic interference with signal transmission or reception unless the applicant provides a replacement signal to the affected party that will restore reception to at least the level present before operation of the wind energy system. No on-site wind energy system shall be installed in any location within the line of sight of an existing microwave communications link where operation of the wind

energy system is likely to produce electromagnetic interference in the link's operation unless the interference is insignificant.

(f) Construction codes, towers, and interconnection standards. On-site use wind energy systems including towers shall comply with all applicable state construction and electrical codes and local building permit requirements. On-site use wind energy systems including towers shall comply with Federal Aviation Administration requirements, the Michigan Airport Zoning Act (Public Act 23 of 1950, MCLA § 259.431 et seq.), the Michigan Tall Structures Act (Public Act 259 of 1959, MCLA § 259.481 et seq.), and local jurisdiction airport overlay zone regulations. An interconnected on-site use wind energy system shall comply with Michigan Public Service Commission and Federal Energy Regulatory Commission standards. Off-grid systems are exempt from this requirement.

(g) Safety. An on-site use wind energy system shall have automatic braking, governing, or a feathering system to prevent uncontrolled rotation or over speeding. All wind towers shall have lightning protection. If a tower is supported by guy wires, the wires shall be clearly visible to a height of at least six feet above the guy wire anchors. The minimum vertical blade tip clearance from grade shall be 20 feet for a wind energy system employing a horizontal axis rotor.

Sec. 39-19. Changes, amendments, etc.; fees. [Ord. No. 464, § 9-1.22; Ord. No. 559; Ord. No. 872; Ord. No. 940, 3-16-1988; Ord. No. 1188, 2-19-1997; 3-7-2018 by Ord. No. 1727; 12-19-2018 by Ord. No. 1756]

(a) Changes, amendments, supplements, site plan review or other similar administrative action to be taken pursuant to this chapter or to the Zoning Map shall comply with the procedural requirements of Section 4 of Act No. 207 of the Public Acts of 1921, as amended or revised to the date of such change, amendment or supplement. Applications for rezoning shall be filed with the City Clerk and shall be accompanied by a filing fee. The fee shall be set forth in a resolution adopted by the City Council.

(b) The applicant shall hold one public outreach workshop and submit a public outreach workshop summary report at the time of Planning Commission application submittal in accordance with the procedures and requirements of the City of Holland's Development Guide. These requirements will apply to the rezoning of property to any zone district, except R-1 or R-2 Zone Districts, when the property is adjacent to a residential zone district and/or residential use.

(c) The City Clerk shall refer such applications to the Planning Commission of the City for a recommendation to the City Council as provided by Act No. 207 of the Public Acts of 1921, as amended and the applicable rules of the Planning Commission.

Sec. 39-19.1. Medical use of marihuana. [Ord. No. 1564, 6-1-2011]

No property in any zone district shall be used for the medical use of marihuana (as defined in Section 39-192.1 of the Holland City Code). Except as provided in Section 39-192.1, the Zoning Board of Appeals may not grant a variance from the requirements of this section.

ARTICLE II
Site and Development Plan Review

Sec. 39-20. Intent. [Ord. No. 1504, 6-18-2008[6]]

The intent of this section is to require varying levels of site plan and development plan review and approval for buildings, structures and uses that have varying levels of impact on natural resources, traffic patterns, and character of the community. The intent is to encourage a high degree of quality development and redevelopment of properties, without undue delay when the impact is minimal. The regulations are intended to promote:

(a) Growth of the City in a responsible manner which provides the citizens thereof with a safe, healthy, and beneficial environment;

(b) Safe and convenient pedestrian, bicycle, and vehicle traffic movement, both within a site and in relation to access streets, adjacent and nearby properties, and adjacent sidewalk network;

(c) Harmonious relationships of buildings, structures and uses, both within a site and with adjacent sites seeking to draw on the best characteristics of surrounding properties;

(d) Conservation of natural amenities and resources;

(e) Minimizing any adverse effects of traffic, noise, dust, and other types of pollution;

(f) Protection and enhancement of property values and thereby secure the fiscal base for public services;

(g) Compliance with the policies and recommendations from a variety of City departments as it relates to the deliverance of public services, such as utilities, police, fire, transportation, and so forth; and

(h) Compliance with the provisions of this article and all other applicable City, state and federal laws.

Sec. 39-21. Site plan, review required. [Ord. No. 1504, 6-18-2008; Ord. No. 1551, § 1, 10-20-2010; Ord. No. 1700]

All proposals for development or redevelopment of land in any zoning district shall be subject to review at one of the following levels before a building permit is issued:

(a) Planning Commission review. This review is conducted by the Planning Commission and is coordinated by Community and Neighborhood Services (the Department) with review assistance from the following City departments: Police, Fire, Transportation Services, Leisure and Cultural Services, and the Board of Public Works (water/ wastewater, electrical and pollution control), and other departments as necessary.

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6. Editor's Note: This ordinance amended Art. II in its entirety. Article II was originally adopted 6-2-1993 by Ord. No. 1092, as amended 12-11-1996 by Ord. No. 1186; 2-19-1997 by Ord. No. 1188; 8-19-1998 by Ord. No. 1222; 2-17-1999 by Ord. No. 1238; 8-4-1999 by Ord. No. 1255; 2-2-2000 by Ord. No. 1271; 1-3-2001 by Ord. No. 1288; 5-23-2001 by Ord. No. 1298; 5-1-2002 by Ord. Nos. 1334 and 1335; and 3-30-2005 by Ord. No. 1411.

(b) Administrative staff review. This review is to be conducted by Community and Neighborhood Services with review assistance from the following City departments: Police, Fire, Transportation Services, Leisure and Cultural Services, and the Board of Public Works (water/wastewater, electrical and pollution control), and other departments as necessary.

(c) Standard new construction permit review. This review is to be conducted by the Zoning Administrator for all other projects not covered by either a Planning Commission review or an administrative staff review and is conducted as part of the standard review for a construction permit, including those uses permitted by Sections 39-69(a)(1) through (13), (15), (16), and 39-197(a)(1) through (15), (17) through (19).

(d) Site plan review responsibility table. The level of review for a site plan will be determined by the following table:

Zoning District	Planning Commission Review	Administrative Staff Review
ED District	Zone	All new buildings exceeding 1,000 square feet
		All building expansions exceeding 10,000 square feet
		Amendments to existing site plan approvals not exempted by Section 39-30
I-1 and I-2 Zone Districts	All new buildings exceeding 1,000 square feet north and west of U.S. 31, and all new buildings east and south of U.S. 31 that are adjacent to or across the right-of-way from residentially zoned property	All new buildings exceeding 1,000 square feet and east of U.S. 31, except for new buildings east and south of U.S. 31 that are adjacent to or across the right-of-way from residentially zoned property
	Any new structure or change of use to an auto repair facility or gasoline service station	
	All additions exceeding 10,000 square feet to buildings north and west of U.S. 31	All additions exceeding 10,000 square feet to buildings south and east of U.S. 31
	Amendments to site plans north and west of U.S. 31 not exempted by Section 39-30	Amendments to site plans south and east of U.S. 31 not exempted by Section 39-30

Zoning District	Planning Commission Review	Administrative Staff Review
C-1, C-2, C-4, and C-5 Zone Districts	New structures/uses greater than 1,000 square feet on property contiguous to residentially zoned property	New structures over 1,000 square feet not contiguous to residentially zoned property
	Any new structure or change of use to an auto repair facility or gasoline service station	Additions exceeding 1,000 square feet to existing buildings
		Amendments to existing site plan approvals not exempted by Section 39-30
C-3 Zone District	Any new construction, additions or expansions to buildings	As required by Section 39-128
	Any new surface parking lot, parking structure, or the expansion of an existing parking lot	
All residential and agriculture zone districts	New apartment or condominium development on two or more acres or having 12 or more dwelling units	Multifamily residential developments of three to 11 dwelling units, provided the development is not part of a potentially larger development
	The establishment of new churches, new hospitals, new nursing homes, new parks, new community centers, new libraries, new museums, and new governmental administrative or government service uses	New accessory structures exceeding 1,000 square feet
	Additions to schools, churches, hospitals or nursing homes, parking structures, community center structures, libraries, museums, and governmental administrative or service uses exceeding 10,000 square feet	Nonresidential additions between 1,000 and 10,000 square feet

Zoning District	Planning Commission Review	Administrative Staff Review
All zones	All projects to be located in a planned residential development or a planned unit development district. The uses permitted by Sections 39-69(a)(14) and 39-197(a)(16) will only require Planning Commission approval if they are larger than 100 square feet in size	As required by other sections of this article, i.e., airport per Article VIII, Division 3, Airport Zoning Regulations
	All projects to be located in the Windmill Island Neighborhood Business District	
	All site condominium projects	
	When requested by the applicant	
	All appeals to site plan reviews	
	Any site plan or development plan in conjunction with a rezoning request	

Sec. 39-22. Standard new construction plan review. [Ord. No. 1504, 6-18-2008]

(a) Filing requirements. The applicant shall submit to Community and Neighborhood Services two legible copies of construction plans accurately depicting the scope of the project that include at a minimum, the following information:

(1) The complete address or parcel number;

(2) All buildings on the site and all proposed construction;

(3) Dimensions and distances to property lines;

(4) Driveways and parking areas;

(5) Other details that may be required to determine compliance with the Zoning Ordinance (additional details are required to determine compliance with the building code).

(b) New construction plan review process.

(1) The Zoning Administrator will review the plan for compliance with the Zoning Ordinance.

(2) The Building Inspector will review the plan for compliance with construction codes.

(c) Procedure. The Department will approve or reject the plan within 10 business days of receipt. If no decision is made in 10 days, the plan is automatically denied. This date may be extended if approved by both the applicant and planning staff.

Sec. 39-23. Administrative staff review. [Ord. No. 1504, 6-18-2008; amended Ord. No. 1700]

(a) Filing requirements. The applicant shall submit to the Director of Community and Neighborhood Services Department or designee:

(1) A completed site plan review application form;

(2) A project description;

(3) The application fee; and

(4) The number of paper copies of the site plan as indicated on the application form, and one digital copy in a pdf file format of a complete proposed site plan that accurately and completely depicts the scope of the project. Incomplete plans will not be considered. At a minimum, the plan shall contain the following information and be based on development standards listed in Sections 39-25 through 39-29. Required submissions not relevant to the particular site plan or development plan may be waived by the City.

a. Plans and map based on an accurate land survey.

b. Direction arrow, date of plan and revisions, and scale (written and graphic).

c. Legal description, address, and tax parcel number of the subject property.

d. Size in acres and square footage of the subject property.

e. Property lines and dimensions.

f. Location and dimensions of all existing and proposed structures on the subject property indicating building setbacks, zoning setbacks, building dimensions and finished floor grade elevations.

g. Elevation drawings of all building sides, indicating materials to be used, and overall dimensions.

h. The location and approximate size of major exterior HVAC or other mechanical equipment.

i. Location and dimensions of all existing and proposed drives, sidewalks, curb openings, curbing, parking areas, total number of parking spaces, loading and unloading areas, recreational areas, and common use areas.

j. Location, pavement width, right-of-way width and center line elevation of all existing and proposed abutting streets, alleys, and easements.

k. Location, type, quantity, and dimension of all existing and proposed landscaping and vegetation and the location, height and type of existing and proposed fences and walls.

l. Size and location of existing and proposed hydrants and utilities, including proposed connections to public sanitary sewer and water supply systems, and private gas, electric, telephone, cable television, and internet locations.

m. Location and size of all existing and proposed subsurface and surface stormwater drainage facilities, including retention and detention ponds, and any established floodplain areas, bodies of water, wetland areas, or other unbuildable areas if present on the site.

n. Proposed grading plan showing direction of drainage flow. Sites that are one acre in size or smaller shall have one-foot contour intervals, while larger sites may use two-foot intervals.

o. Location of existing and proposed refuse/recycling area showing proposed enclosures and method of screening.

p. Location and intensity of existing and proposed exterior lighting, including areas to be illuminated, illumination levels (footcandles), type and height of fixtures, and cutoff shielding provided.

q. Location, lighting, design and dimensions of proposed signage.

r. The City reserves the right to require other details pertaining to the development to determine compliance with the Zoning Ordinance and applicable City policies.

(b) Administrative staff review process.

(1) Plans will be distributed to City departments for their review within two business days of the application date.

(2) City department reviews. Copies of the site plans shall be distributed to and evaluated by the Board of Public Works (water/wastewater, electrical, pollution control, and fiber), Police, Fire, Transportation Services, Leisure and Cultural Services, the Airport Authority Board and staff, and Community and Neighborhood Services Departments with respect to applicable ordinances and policies, and with respect to the safe, efficient delivery of community services.

(3) Departments will respond with written comments to the planning staff within 10 business days of the application date. In their comments, departments shall clearly distinguish between any comments or requirements that are mandated by law or other authority, and those that are recommended or desirable.

(4) All mandated conditions shall be incorporated into the final plan. Community and Neighborhood Services staff may incorporate into the site plan comments listed as recommended or desirable.

(5) Upon receipt of the departmental reviews, planning staff shall provide copies of the comments and findings to the applicant.

(c) Administrative staff procedure.

(1) Subject to Subsection (d), Community and Neighborhood Services staff will approve with conditions, approve or deny the plan within 15 business days of the application date. If no decision is made within 15 business days of the application date, then the plan is automatically denied. This date may be extended if approved by both the applicant and planning staff.

(2) In making a determination of approval or disapproval, Community and Neighborhood Services staff shall base its decision upon findings of compliance with the requirements of the particular zone district, site plan review standards found in Sections 39-25 through 39-29, other applicable sections of this chapter and this Code, and applicable state or federal statutes.

(3) When a site plan is approved subject to conditions, those conditions must be:

a. Reasonable, and based on protecting the health, safety, and general welfare of the public;

b. Necessary to insure that public services and facilities affected by the proposed land use or activity be capable of accommodating increased service loads caused by the land use or activity;

c. Protective of the natural environment and responsible for conservation of natural resources and energy;

d. Compatible with adjacent uses of land, and/or would promote the use of land in a socially and economically desirable manner.

(4) In approving the site or development plan subject to conditions, Community and Neighborhood Services staff may exercise reasonable discretion with respect to those characteristics of a development which may not be strictly regulated by ordinance or policy restrictions, such as, but not limited to: **[Amended 1-2-2019 by Ord. No. 1759]**

a. Location of parking areas and drives in relation to traffic, intersections or other driveways;

b. Impact on pedestrian and automobile circulations;

c. Impact on air space within 3,200 feet from the West Michigan Regional Airport authority as specified in Article VIII, Division 3 of this chapter.

d. Location and screening of accessory uses, such as transformers, exterior HVAC equipment, and storage buildings;

e. Location and design of recreational areas;

f. Potential impact of light, noise, and other emissions; and

g. Other similar installations and equipment which might impact adjoining properties and for which specific regulations have not been established.

(d) Notice of administrative review. Community and Neighborhood Services Department staff will notify property owners and occupants within 300 feet of the subject property. Notice will be mailed at least five days before the review. A public hearing will be conducted if a written request is received from a notified person within seven days of the mailing of the notice, or if requested by the applicant, or at the initiative of Community and Neighborhood Services Department staff.

Sec. 39-24. Planning Commission site plan review and development plan review. [Ord. No. 1504, 6-18-2008; amended Ord. No. 1700; 12-19-2018 by Ord. No. 1756]

(a) Filing requirements. The applicant shall submit to the Community and Neighborhood Services office:

(1) A completed site plan review application form.

(2) An application fee.

(3) The number of paper copies of the site plan as indicated on the application form, and one digital copy in a pdf file format that accurately and completely depicts the scope of the project. Incomplete plans will not be considered. At a minimum, the plan shall contain the information listed in Subsection 39-23(a)(4). Additional information will be required as follows: A written narrative shall be included as either general notes on a site or development plan, or as an attachment and shall include the following:

a. Percentage of site allocated to buildings, parking lots, and other impervious surfaces;

b. For residential developments, a summary of the number, type and density of dwelling units, number of bedrooms, the proposed market to be served, and proposed typical elevation views of each type of building;

c. Impact on public services to include schools, police and fire protection, utilities, and traffic;

d. Expected schedule or phases of development;

e. List of all state, federal, or other regulatory approvals to which the development may be subject, the status of any pending applications, and the anticipated time frame for obtaining such approvals;

f. Discussion of relationship to surrounding properties and uses regarding vehicular and pedestrian access and circulation, development density and orientation, and the development's architectural and landscape character;

g. Discussion of any impacts relating to such issues as noise, vibration, smoke, light, glare, or other potentially problematic conditions associated with proposed uses;

h. Other information as may be requested by the Department or Planning Commission which is reasonably necessary to evaluate the site plan. A request for independent professional studies, including, but not limited to, traffic studies, environmental impact assessments, fiscal impact assessments, floodplain and wetland determinations, soil test borings, and market studies to determine evidence of a market need for the uses and economic feasibility of the project shall require a Planning Commission request, unless an applicant willingly consents to providing such requested information, in which case the Department may make such a request. All costs incurred by the City to obtain such professional studies shall be fully paid by the applicant.

(4) Additional planned unit development information. For a project in a PUD zone, the plan shall include computation of the percentage of acreage and building area which will be utilized for each of the permitted uses under Section 39-166. The plan shall also include a written statement describing the objectives of the project and conformity to the City's Master Plan.

(5) Additional airport area information. Any proposed project in the airport area as described in Subsection 39-337(b) shall require:

a. Written recommendation from the Airport Advisory Board prior to site plan or development plan approval; and

b. The completed Federal Aviation Administration review prior to receiving a building permit.

(b) Planning Commission review process.

(1) Complete applications shall be submitted a minimum of 21 calendar days prior to a meeting with the Planning Commission.

(2) Public hearing requirement. Upon receipt of a complete application, the Department shall provide public notice in accordance with Section 39-4.1.

(3) City department reviews. Copies of the site plans shall be distributed to and evaluated by the Board of Public Works (water/wastewater, electrical and pollution control), Police, Fire, Transportation Services, Leisure and Cultural Services, and Community and Neighborhood Services Departments with respect to applicable ordinances and policies, and with respect to the safe, efficient delivery of community services.

(4) Public outreach workshop requirement. The applicant shall hold one public outreach workshop prior to applying for site plan approval and submit a public outreach workshop summary report at the time of Planning Commission application submittal in accordance with the procedures and requirements of the City of Holland's Development Guide. These requirements will apply to the following:

a. All site plan reviews in the C-3 Central Business Zone District.

b. All development plans associated with a PRD Planned Residential Development or PUD Planned Unit Development.

c. All site or development plans associated with a site condominium or multifamily residential development.

(5) Upon receipt of the departmental reviews, Community and Neighborhood Services staff shall provide copies of the City department review comments and findings to the applicant as well as incorporate the various comments in the official report submitted to the Planning Commission.

(c) Planning Commission process.

(1) Prior to the meeting with the Planning Commission, Community and Neighborhood Services staff shall submit a written report to the Planning Commission evaluating the site plan, and informing the Planning Commission of any concerns about the site plan identified by other City departments.

(2) The Planning Commission shall review and approve, review and approve with conditions, or review and deny a site or development plan based on compliance with the articles of this chapter, including the development standards of Sections 39-25 through 39-29.

(3) When a site plan is approved subject to conditions, those conditions must be:

a. Reasonable and based on protecting the health, safety, and general welfare of the public.

b. Necessary to ensure that public services and facilities affected by the proposed land use or activity be capable of accommodating increased service loads caused by the land use or activity.

c. Protective of the natural environment.

d. Responsible for conservation of natural resources and energy.

e. Compatible with adjacent uses of land, and/or would promote the use of land in a socially and economically desirable manner.

(4) In approving the site or development plan subject to conditions, the approving authority may exercise reasonable discretion with respect to those characteristics of a development which may not be strictly regulated by ordinance or policy restrictions, such as, but not limited to: **[Amended 1-2-2019 by Ord. No. 1759]**

a. Location of parking areas and drives in relation to traffic, intersections or other driveways;

b. Impact on pedestrian and automobile circulations;

c. Location and screening of accessory uses such as transformers, exterior HVAC equipment, and storage buildings;

d. Location and design of recreational areas;

e. Potential impact of light, noise and other emissions; and

f. Other similar installations and equipment which might impact adjoining properties and for which specific regulations have not been established.

(5) In making a determination of approval or disapproval, the Planning Commission shall base its decision upon findings of compliance with the requirements of the particular zone district, site plan review standards found in Sections 39-25 through 39-29, other applicable sections of this chapter and this Code, and applicable state or federal statutes.

Sec. 39-25. Development standards; site and development plans. [Ord. No. 1504, 6-18-2008]

(a) Utility service. All buildings shall be served by public sanitary sewer and water. The development shall not overburden the sanitary drains, water, solid waste disposal or similar public facilities and utilities. All electrical and wired services shall be installed underground. All utilities shall be planned and installed per the City of Holland and the Holland Board of Public Works requirements.

(b) Drainage. The drainage of stormwater runoff shall be accomplished in such a manner so as to not adversely affect neighboring upstream and downstream properties or the public stormwater management system. If practical, stormwater shall be removed from all impervious areas and carried away in an underground or surface drainage system or allowed to disseminate into the groundwater aquifer via leaching basins. Temporary on-site detention of stormwater may be required to reduce peak runoff flows and velocities. Permanent stormwater storage in the form of retention ponds may be required when deemed necessary by the City or county drain authority. The City or county drain authority may also require off-site shared drainage facility improvements between the owners of the properties where sending waters originate and the owners of properties receiving the water. Surface water in all paved areas shall be collected at intervals and/or shall be directed via sheet flow, so that it will not obstruct the flow of vehicular or pedestrian traffic, and will not create long-term standing water in the paved areas. On-site drainage areas shall be indicated on the site or development plan. The approving authority may specify any required fencing or other screening devices, if a wet retention pond is planned which may be deemed to constitute an attractive nuisance. The area of a stormwater detention or retention pond will be used in the calculation of density on a site, and shall be an integrated part of the required landscaping, open space, and recreational provisions of the development.

(c) Streets, drives, and traffic flow. The applicant shall show either unobstructed frontage on a public street or shall construct a public street or private street or drive to assure public access to the project site. The approving authority, subject to the concurrence of City Council, has the discretion to require the construction and dedication of public streets in accordance with City street standards. All streets and drives shall be so arranged to provide adequate access to all buildings for emergency service vehicles. In an effort to provide safe and adequate levels of service in regards to adjacent and on-site street safety and service levels, the site or development plan approving authority may require the following:

(1) Limitations on the number and size of curb cuts;

(2) Determination of the proper number of lanes and lane widths per driveway based on the expected trip generations and peak turning volumes of the proposed land use(s).

(3) Restrictions or prohibitions of certain left turns if corner clearance, sight distance, or driving spacing is determined to be inadequate.

(4) Driveways and streets aligned with driveways and streets on the opposite side of the street, when appropriate and reasonably possible.

(5) Adequate sight distance assured for all vehicles exiting from a development. If certain movements cannot be made safely, then they shall be prohibited, or joint access with adjoining property shall be encouraged.

(6) Minimum driveway and street spacing standards may be required based on the Institute of Traffic Engineers (ITE) or other acceptable urban planning or engineering standards.

(7) Improvements on-site and for immediately adjacent streets, including, but not limited to: deceleration and acceleration lane provisions, center turn lanes, bypass lanes, curb radii requirements, clear vision areas, driveway throat widths, and driveway and street intersection slope requirements.

(8) The approving authority may limit or prohibit the use of cul-de-sac streets.

(9) Sidewalks/bicycle paths. Sidewalks or bicycle paths shall be required along the frontage of public and private streets where the approving authority determines such sidewalks are appropriate and where deemed necessary to assure one or more of the following: public safety; continuity with existing or planned future pedestrian and/or bicycle circulation; and consistency with sidewalk programs or policies adopted by the Holland City Council.

Sidewalks shall be constructed of concrete six feet wide and shall be constructed to City specifications unless an alternate is specifically reviewed and approved by the City Engineer and the approving authority. Waiver of sidewalks during site or development plan review does not prevent the City from requiring sidewalks at some future date and assessing property owners for the cost thereof, as appropriate. Bicycle storage facilities may be required, where appropriate.

(d) Lighting. Outdoor lighting shall comply with the following standards:

(1) All streets, sidewalks, parking lots, and other common areas or facilities shall be sufficiently illuminated to ensure the security of property and the safety of persons using such areas and facilities.

(2) Lighting within any property that unnecessarily illuminates any other property and substantially interferes with the use and enjoyment of such other property is prohibited.

(3) All outdoor lighting used to illuminate the general area of a specific site shall be shielded to reduce glare and shall be so arranged as to deflect light away from all adjacent residential districts and adjacent residences.

(4) All outdoor lighting shall be parallel with the ground and confined to the ground areas of lawns or parking lots.

(5) Light fixtures shall be designed so that no light emitted above a horizontal plane parallel to the ground.

(6) The lighting of outdoor parking lots shall comply with Subsection 39-53(b).

(7) All lighting used for the external illumination of buildings, landscapes, and merchandise so as to feature said buildings, landscapes and merchandise, shall be directed downward and placed and shielded so as not to interfere with the vision of persons on adjacent properties, streets, or highways. For buildings determined by the Department or Planning Commission to have special architectural merit or public significance warranting special lighting, the Department or Commission may approve lighting which is not directed downward.

(8) Exterior illumination of signs shall be directed or shaded downward so as not to interfere with the vision of persons on adjacent properties, streets and highways.

(9) Artificial light and fixtures shall be maintained in a manner so as not to constitute a hazard or nuisance.

(10) Exterior lighting of nonresidential properties shall be diminished to levels adequate only for security purposes during times of the night when the business is closed.

(11) In applying the criteria and development standards for exterior lighting, the reviewing authority may consider and apply the recommendation guidelines promulgated by the illuminating engineers society for "minimum recommendations of lighting levels" as existing or subsequently amended and such administrative rules as shall be adopted by the Planning Commission establishing criteria and interpretation for exterior lighting development, pursuant to Section 1-7 of this Code.

(e) Parking, loading and unloading.

(1) For any new construction or land use, the applicant shall provide parking and loading/unloading areas which conform to Article IV, Off-Street Parking and Loading, of the Zoning Ordinance. For any expansion which requires site or development plan approval, the applicant shall provide parking as required by the article, provided however, that the approving authority may modify the requirements based on the following factors:

a. The parking requirements in effect at the time of original development and current requirements.

b. The anticipated demand for parking in light of the proposed expansion.

c. The availability of alternate parking either as shared parking or on street parking within a reasonable distance from the subject property as outlined in Section 39-51.

d. General site organization and its orientation to surrounding properties and land uses.

e. Relationship to surrounding streets and access drives.

f. Internal and external pedestrian and vehicular circulation.

g. Aesthetic characteristics of the site, building, and parking area.

h. The extent to which changes otherwise required will result in mitigating negative impacts of existing or proposed development on surrounding properties.

i. The extent to which the cost of compliance with current ordinance requirements is balanced by the benefits realized by compliance.

j. The reviewing authority shall not impose parking requirements greater than those required for new construction under the Zoning Ordinance.

(2) In addition to the above standards, the reviewing authority shall also evaluate the following design elements:

a. The safety of traffic flow into and through parking areas.

b. The orientation of the spaces to the access drive, street and building.

c. Treatment of traffic and landscaping islands and peninsulas and the handling of snow and clear vision considerations.

d. Design and location of entrances and exits to parking areas to minimize traffic congestion.

e. Consideration of design and spacing requirements for delivery vehicles.

f. Placement of large parking areas relative to the view from the public street.

(f) Signage. The size, location, and lighting of all signs shall be required in accordance with Article IX, Signs, of the Zoning Ordinance.

(g) Landscaping, screening and buffering. A detailed landscape plan and plant list shall be submitted as a required component of any site or development plan. All landscape plans shall include the following:

(1) At a spacing of no less than one every 30 feet, the planting of 2 1/2 inches (measured six inches above the ground) caliper, street shade trees in right-of-way locations between the sidewalks and curbline along all public and private streets; species to be approved by the City.

(2) All building and parking lot perimeters planted with appropriate shrubs, trees, perennials and/or annuals, which may include a mixture of turf grass.

(3) For every parking lot developed as a principal or accessory use, there shall be provided on lands, contiguous to such parking lot an area or areas of open space, planted and landscaped with natural vegetation, at a ratio of not less than one square foot of landscape area for each 10 square feet of parking area. Where any parking lot exceeds 200 feet in any dimension, it shall further be required that at least 50% of the required landscaped open space be provided within the parking lot as opposed to the perimeter of the lot, so as to mitigate the adverse aesthetic impact of large masses of uninterrupted blacktop or concrete. No parking lot shall be closer than 10 feet to any street, property, or common line with a residential district line. These 10 feet shall be planted and landscaped with natural vegetation.

(4) When a commercial or industrial development is proposed adjacent to residential properties, screening and buffering in the form of vegetative plantings and/or fences or walls may be required to minimize any negative impacts on the adjacent residential properties due to light, noise, dust, and other potentially negative impacts.

(5) All required landscaping, screening and buffer areas shall be maintained by the applicant and successor owners and/or occupants. Trees and other vegetation that die due to weather or cultural practices such as, but not limited to, too much or too little irrigation, or incorrect pruning methods shall be promptly replaced with in kind vegetation.

(h) Environmental quality. Any project shall be so designed as to reasonably protect residents of such project, and residents or occupants of neighboring premises, with respect to the emission and transmission of noise, smoke, dust, dirt, litter, odor, vibration, light glare, traffic congestion, ease of routine and emergency services, drainage, erosion, light and ventilation, surface and groundwater quality, overcrowding of persons, sanitation, property values, general appearance and character, and other similar considerations.

Sec. 39-26. Additional development standards for PUD Planned Unit Developments and PRD Planned Residential Developments. [Ord. No. 1504, 6-18-2008; Ord. No. 1585, 5-16-2012]

(a) Percentage of uses in the PUD or PRD. The applicant shall submit calculations of the percentage of the total acreage and floor space of each use proposed for the project. The Planning Commission shall determine if the percentage of uses is appropriate for the size of the project, location of the PUD or PRD, compatible with surrounding neighborhood development, established and future traffic patterns, and market to be served by the PUD or PRD.

(b) Area and density. Since the PUD or PRD district may serve to promote creative design in the redevelopment of the central City areas as well as cohesive development of outlying areas, no minimum area and density regulations are prescribed. It shall remain the responsibility of the Planning Commission and the City Council to review the proposed density in each particular instance and to establish a maximum density in cooperation with the developer based on such factors as:

(1) The size and projected density of individual dwelling units;

(2) Occupancy characteristics and needs of the primary market to be served by the project;

(3) Proximity and inclusion of parks, playgrounds, waterways or other open space;

(4) Density of adjoining and nearby residential and other developments;

(5) Degree of redevelopment, if any, necessary for implementing the project;

(6) Pedestrian and traffic circulation patterns.

(c) Parking. Parking shall be in accordance with Article IV of this chapter and calculated according to the uses of the project. These requirements may be increased in a PUD or PRD by the Planning Commission if it is determined that the project will need additional parking spaces on site due to the twenty-four-hour usage of the spaces, inability to share parking with surrounding entities, impracticality of walking any distance to the facilities within the PUD or PRD, or other such demands as stated by the Planning Commission. Parking requirements may be reduced in a PUD or PRD by Planning Commission. Such reduction shall be based upon a finding by the Planning Commission:

(1) That the applicant has provided sufficient evidence to indicate parking will be available through sharing of spaces by different uses;

(2) That the parking requirement is excessive for the type of use proposed;

(3) That walk-in trade for commercial centers will reduce parking demand, or similar factors.

The Planning Commission may require that additional parking area(s) be designated on the final site plan but not constructed until such time that the City or the developer finds the demand for parking exceeds the number of spaces that are initially provided. At that time the developer shall construct the parking area within four months of a written request by the Building/Zoning Administrator or upon issuance of a building permit from the Building/Zoning Administrator.

(d) Streets. In addition to the requirements of Subsection 39-25(c), private drives or courts may be allowed within a PUD or PRD district:

(1) When intended to serve only residents of a particular development;

(2) When deemed adequate for the provisions of routine and emergency services; and

(3) When acknowledged by owners/developers to be excluded from all maintenance services related to dedicated public streets within the City. Adequate provisions must be made by the owner/developer to maintain the streets.

(e) Building restrictions. In an effort to allow flexibility in a PUD and PRD, building restrictions should be kept to a minimum, except that each of the following standards shall be adhered to:

(1) Building setbacks and height shall be determined by the Planning Commission according to the use of the buildings and character of the neighborhood.

(2) All portions of the land not developed must be landscaped with trees, shrubs and suitable live ground cover.

(3) Any portions of a commercial structure or parking area must be screened from any abutting residential area by a wall or berm measuring not less than four feet in height.

(4) No portion of the off-street parking shall be any closer than 25 feet to any property line adjoining a street or sidewalk. The remaining 25 feet between the parking and property lines shall be landscaped in accordance with Subsection (e)(2). The 25 feet may be reduced by the Planning Commission if more intense screening is provided.

(f) Enclosures. All processing or storage of merchandise and materials in a PUD district shall be conducted wholly within a completed enclosed building. Business and service uses may be permitted without enclosure upon approval by the Planning Commission where appropriate.

Sec. 39-27. Additional requirements for site condominium projects. [Ord. No. 1504, 6-18-2008]

Site condominiums are allowed in any district. This section shall apply to any new site condominium project and any amendment to an existing master deed including, without limitation, an amendment which creates additional condominium units by an addition of land or the conversion of areas to additional condominium units. In addition to the standards contained in Sections 39-25 through 39-29, a development plan for a site condominium project shall also comply with the following requirements:

(a) Each condominium unit shall contain an appurtenant limited common element for the exclusive use of the condominium unit owner which complies with the applicable zone district, in which the site condominium project shall be located concerning lot area, minimum lot width and frontage, and required front, side and rear yards, unless such requirements are specifically waived by the Planning Commission in its approval of the development plan. For purposes of determining compliance with these provisions, the condominium unit and its appurtenant limited common elements shall be considered the equivalent of a lot.

(b) Each condominium unit shall be subject to all other applicable requirements of the zone district in which the site condominium project is located, including, but not limited to, use regulations, minimum floor area, and the maximum building height, unless such requirements are specifically waived by the Planning Commission in its approval of the development plan.

(c) Each site condominium project, and the condominium units created therein, shall be constructed in compliance with the standards otherwise applicable to subdivision plats and lots created therein pursuant to Chapter 33 of the Code. Said standards may be waived by the City Council of the City of Holland by a variance granted pursuant to Chapter 33 of the Code of the City of Holland.

(d) Each site condominium project and the condominium units created therein, shall comply with all applicable provisions of Chapter 32 (Streets and sidewalks) and the standards otherwise applicable to the site condominium project for development, unless such standards are specifically waived by the City Council of the City of Holland pursuant to a variance granted there under.

(e) Each site condominium project shall comply with the requirements otherwise applicable to subdivision plats contained in Chapter 33 of the Code concerning public improvements, which must be constructed by the proprietor of the site condominium project, including financial security requirements to complete construction, unless such requirements are specifically waived by the City Council of the City of Holland pursuant to a variance granted pursuant to Chapter 33.

(f) The developer of an approved site condominium project shall be required to execute and deliver to the City any dedicatory instruments, easements, or other documents necessary to convey and dedicate the roads and utilities for public use.

Sec. 39-28. Additional standards for overlay zone districts. [Ord. No. 1504, 6-18-2008]

For additional development standards, refer to Article VIII, Division 5, Overlay Zone Districts.

Sec. 39-29. Additional requirements for development in the C-3 Central Business District. [Ord. No. 1504, 6-18-2008]

Development within the C-3 Central Business District is intended to support pedestrian activity through both the diversity of permitted uses and through the character of the building and street environment.

(a) Review criteria. In order to support the character, safety, and use of this district, site plan or development plan approval within this zone district shall satisfy the following criteria, as determined by review of the Planning Commission:

(1) Street-level building facades.

a. Along street level elevations of and facing type "A" streets, there shall be a minimum window area of 60% of the portion of the street facade, as measured beginning at 18 inches above the sidewalk to a height of 10 feet above the sidewalk. For measurement purposes, this percentage of window area may include sills, lintels, muntins, mullions, and window framing, as well as entry doors. For corner properties, the minimum percentage of window area shall be no less than 40% of the wall area within the defined limits on the secondary street-fronting facade. Application of this subsection may be determined by the Planning Commission to be eligible for the optional plan review process.

b. Window area similarly measured for frontages along permanent public open space and facing off-street parking areas shall comprise a minimum 25% of the portion of the building facade in order to facilitate visibility and security to that open space and parking area. Application of this subsection may be

determined by the Planning Commission to be eligible for the optional plan review process.

c. The downtown is characterized by frequent and inviting building entrances supporting the pedestrian vitality and continuity of the commercial center. Entrances to commercial buildings along type "A" streets shall occur at least every 60 feet. The Planning Commission may increase this interval where it determines that:

1. The site is in transitional areas where street level commercial activity is not yet mature or supported by surrounding development, provided accommodation is made in the design and construction of the building not to restrict future additional entrances when more comprehensive development has occurred and pedestrian activity along this street frontage has increased;

2. The proposed building use is significantly compromised by entrances placed at this maximum spacing;

3. On corner buildings, entrances along more than one street frontage significantly impede the use of street level building area; or

4. Grade changes along the subject building frontage significantly impede such access.

Application of this subsection may be determined by the Planning Commission to be eligible for the optional plan review process.

d. Materials shall be selected for street level building facades that are compatible with the existing character of nearby buildings, while allowing the opportunity for the use of contemporary materials and design elements. Materials selected must be of high quality and durable.

e. Renovations and alterations of existing buildings shall not make a facade any less conforming to those standards than the existing condition.

(2) Upper story facade design. Portions of building facades above a storefront along type "A" streets shall be reviewed to assure the design of those new building facades is compatible with other features of the building and with positive attributes of surrounding properties. Factors to consider include, but may not be limited to, the amount, scale, and proportion of window openings, compatibility of exterior building materials, and the architectural ornamentation and detailing. Application of this subsection may be determined by the Planning Commission to be eligible for the optional plan review process.

(b) Optional Plan Review (OPR) for development within the C-3 District. Section 39-29 establishes the standards for design and development of buildings and property in the C-3 District. However, circumstances arise which those provisions do not address or did not foresee. Therefore, this Subsection (b) establishes an alternative process by which the Planning Commission may evaluate and approve a development project that does not meet certain standards of Section 39-29. Review under this OPR process shall be pursuant to Section 39-130.

(c) Review by Downtown Development Authority. Prior to final action by the Planning Commission regarding a site or development plan approval within the C-3 District, including both the standard site plan review process and the OPR, a copy of the proposed development plans and elevations shall be forwarded to the Downtown Development Authority for its information.

Sec. 39-30. Modifications to approved site and development plans. [Ord. No. 1504, 6-18-2008]

(a) Intent. The intent of this section is to recognize that changing conditions in our environment and economy may require deviations from approved site and development plans. This section sets forth a process to approve these modifications when they arise. These modifications may be due to:

(1) Unforeseen utility or geological problems;

(2) Changes in market demand over a phased project or during the period in which an approval is valid;

(3) Changes necessitated by refinements to plans during the construction documentation process; or

(4) New technologies or design features that would improve a development.

Potential modifications are categorized into three sections: minor, moderate, and major.

(b) Minor changes include modifications in which there is no significant deviation from the approved site or development plan and include the following:

(1) Minor adjustment in the layout of streets, drives or utilities.

(2) Minor reconfiguration of an approved footprint area to include increases or decreases in building footprint areas.

(3) Minor relocations of building footprint areas provided there would be no additional encroachment into required perimeter yards.

(4) Adjustments to parking relating to such footprint changes or to other minor modifications.

(5) Relocation or addition of walkways, provided the intent of pedestrian circulation is not inhibited.

(6) Relocation of refuse stations.

(7) Modifications to signage plans.

(8) Addition of recreation equipment not involving permanent buildings.

All such proposed minor modifications shall be submitted to Community and Neighborhood Services which may distribute the site or development plans to the Board of Public Works, Police, Fire, Transportation Services, and Leisure and Cultural Services Department personnel for review and comment with respect to applicable ordinances and policies. The Department with consultation from the Zoning Administrator has the authority to approve such minor changes or to refer the proposed modifications to the Planning Commission.

In the event the Department determines that the change to the approved site or development plan meets the criteria set forth in this section, an administrative summary prepared by Community and Neighborhood Services Department staff shall be placed in the project file stating the nature of the change proposed by the owner, the reason for such change, and the approval by the department. If the subject site or development plan to be modified was originally approved by the Planning Commission, a summary of Community and Neighborhood Services approval shall be filed for informational purposes with the Planning Commission at its next regular meeting.

(c) Moderate changes include those modifications which deviate enough from the site plan so that they should receive Planning Commission review and approval, but do not require noticing of a public hearing. They include:

(1) Changes include changes to the approved site plans or development plans that result in the reduction of lots in residential developments;

(2) All amendments to approved development plans in planned unit development districts and planned residential development districts that do not increase that density of uses; and

(3) Other modifications not listed in Subsection (b) that are determined by Community and Neighborhood Services staff as not having any negative impact on surrounding property.

All moderate modifications to approved site plans or development plans shall be submitted to Community and Neighborhood Services no fewer than seven days before the Planning Commission meeting at which time the applicant would like the modifications approved. Community and Neighborhood Services staff will distribute the site or development plans to be evaluated by the Board of Public Works (water/wastewater, electrical and pollution control), Police, Fire, Transportation Services, Leisure and Cultural Services, and Community and Neighborhood Services Departments with respect to applicable ordinances and policies, and with respect to the safe, efficient delivery of community services.

Upon reviewing the proposed modifications, the Planning Commission shall make its determination in accordance with Subsection 39-24(c).

(d) Major changes. Other site plan changes not listed in Subsections (a) and (b) shall be reviewed in accordance with the Planning Commission site plan review and development plan review as outlined in Section 39-24.

Sec. 39-31. Appeals procedure. [Ord. No. 1504, 6-18-2008]

(a) Any person aggrieved by a staff administrative review decision to grant or deny approval of a site plan, or modify an approved site plan, may appeal the decision to the Planning Commission. The appeal must be filed within five days of the decision, and shall state the factual basis for the appeal. An appeal shall stay action on the issuance of any permit pursuant to an approved site plan. The Planning Commission shall hold a public hearing according to the requirements of Section 39-4.1. After such hearing, the Planning Commission shall affirm, reverse, or otherwise modify the original staff administrative decision, stating its finding and the reasons for its action. A written copy of such findings, reasons and actions shall be given to the appellant.

(b) Any person aggrieved by a procedural decision of the Planning Commission to grant or deny approval of a site plan, or modifications to an approved site plan, may appeal the decision to the Zoning Board of Appeals (ZBA). The application for ZBA review must be filed within 21 days of final Planning Commission action.

Sec. 39-32. Control of the plan and enforcement. [Ord. No. 1504, 6-18-2008]

(a) When a site or development plan is approved, in accordance with the procedures and standards of this Article II, that plan shall be the controlling element for building on a property. All foundation, building, and site work shall be consistent with the approved site or development plan. A filed site or development plan, approved under the provisions of this Article II, shall have the full force of the Zoning Ordinance. Upon approval, a site plan shall be deemed valid for the duration of the development period, provided, that substantial construction of utilities, streets or buildings has commenced within 18 months of the date of site plan approval. Substantial construction shall include the installation of one or more underground utility systems, the installation of streets or the installation of one or more building foundations. When the site includes the phased construction of streets, utilities or other infrastructure, which may relate to adjoining property or the public interest, assurances that a timely completion is achieved may be required. The site plan and development plan approving authority may require a performance guarantee in the form of posting a bond or irrevocable letter of credit for an amount determined by site plan and development plan approving authority to ensure the installation of the specified public or other approved site improvements.

(b) Site improvements and the construction of buildings must continue to proceed in a diligent manner, and the project must be pursued according to the phasing component of the plan. If circumstances dictate a change in the phasing plan, a change must be submitted to Community and Neighborhood Services prior to the expiration of the eighteen-month validity period. If site improvements have not commenced in accordance with the eighteen-month validity period, the developer, prior to the original expiration date, may file a petition with Community and Neighborhood Services to extend the validity period for an additional one-year period. Community and Neighborhood Services shall forward the petition to the original plan approving authority, which may add up to a one-year extension if it determines that valid unforeseen circumstances disrupted the implementation of the plan and that the plan may be expected to proceed during the requested extension period. In the event a plan approval period expires, and no site improvements have commenced, nor has the

developer requested an extension period prior to the expiration, the plan shall be deemed void and invalid. The land areas affected by such plan shall from thereon not be developed except upon the submission, review and approval of a subsequent plan in accordance with original plan approval procedures.

(c) Violations of any approved site plan shall be grounds for the City to order that building permits be withheld, revoked or suspended until the violation is removed or adequate guarantee of such removal is provided to the Department and Zoning Administrator, along with such other remedies for violation as may be prescribed by the Charter and Code of the City of Holland.

(d) Continued compliance. Where an installation, alteration, or condition has been established for approval of a site or development plan, the continued adherence to the same shall be required for the duration of the use or activity on the site. Failure to provide maintenance, as may be necessary to assure the ongoing compliance with the terms of approval, shall be deemed a violation of this Article II and subject to legal remedies available to the City.

Sec. 39-33. through Sec. 39-34. (Reserved)

ARTICLE III
Nonconforming Uses and Structures

Sec. 39-35. Intent. [Ord. No. 1014, 12-19-1990; Ord. No. 1188, 2-19-1997; Ord. No. 1336, 5-1-2002; Ord. No. 1419, § 1, 7-20-2005]

(a) The lawful use of any land or structure as such existed at the time of the enactment of this chapter or amendments thereto may be continued, although such use or structure does not conform with the provisions of this chapter or amendments thereto.

(b) Nothing in this section shall be interpreted as authorizing or approving the continuance of the use of a structure or premises in violation of zoning regulations in effect January 9, 1991.

(c) It is the intent of this section to permit nonconforming uses to continue until they are removed, but not to encourage their survival. Such nonconforming uses and structures are declared by this section to be incompatible with permitted uses in the districts involved. It is further the intent of this section that nonconforming uses shall not be enlarged upon, extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

(d) Nonconforming structures, conforming in use, may be expanded if the following provisions are met:

(1) Parking be in accordance with this ordinance for such structure;

(2) Expansion conforms to the present zone district specifications.

(e) Notwithstanding Subsection (c) of this Section 39-35, certain nonconforming uses within the C-3 District may be enlarged or extended when satisfying requirements of Section 39-128(c)(1).

Sec. 39-36. Change of use. [Ord. No. 1014, 12-19-1990; Ord. No. 1188, 2-19-1997]

The nonconforming use of any structure may be changed to another nonconforming use upon public hearing and findings of fact by the Zoning Board that the proposed nonconforming use will not be more incompatible, detrimental, or create additional nuisance factors than the previous nonconforming uses. The Zoning Board shall consider the following for its determination:

(a) Evidence that proposed nonconforming use will not adversely effect or decrease the valuation of neighboring property;

(b) Evidence that the proposed nonconforming use will not increase density, congestion or general nuisance to neighboring property;

(c) Evidence that the proposed, nonconforming use will not increase the amount of radioactivity, vibration, noise, odor, heat or other adverse factors listed in Section 39-84;

(d) Evidence that the proposed nonconforming use will not necessitate an increase in off-street parking which would be detrimental to neighboring property; or

(e) Such additional factors as determined by the Zoning Board relating to the health, safety, and welfare of adjacent property which would be adversely impacted.

Sec. 39-37. Reestablishment of nonconforming use. [Ord. No. 1014, 12-19-1990; Ord. No. 1188, 2-19-1997]

Whenever the nonconforming use or structure or land has been brought into conformance, a nonconforming use, structure or land shall not thereafter be reestablished. In addition, if structure or use is altered, remodeled or modified so as to eliminate or remove any or all of its nonconforming characteristics, then such nonconforming characteristics shall not be later reestablished.

Sec. 39-38. Repairs, maintenance, moving and restoration. [Ord. No. 1014, 12-19-1990; Ord. No. 1097, 10-6-1993; Ord. No. 1152, 9-6-1995; Ord. No. 1188, 2-19-1997]

(a) Nothing in this article shall be deemed to prevent the repair and maintenance of a nonconforming use or structure such as may be necessary to maintain it in safe, sound condition, nor to prevent repairs to damage not exceeding 50% of assessed value.

(b) A nonconforming structure and/or a nonconforming use which is damaged or destroyed by fire, flood, wind, other calamity or neglect and deterioration by 50% or greater of assessed value, at the time of destruction or request for a building permit may be restored if the Zoning Board finds the following conditions are met:

(1) Restoration of the structure and/or use will not substantially extend the probable duration of the nonconforming structure and/or use. Restoration of the structure or use will be done with similar building materials, structural layout and design, construction methods, fixtures, and mechanical equipment, thereby limiting the possibility that such restoration will substantially extend the probable duration of the structure or use; and

(2) Circumstances are such that the land previously occupied by the nonconforming structure and/or use cannot reasonably meet the criteria of that zone district.

(c) A nonconforming structure shall not be moved in whole or in part to another location unless such structure conforms to the requirements of this article.

(d) Notwithstanding Subsections (a) through (c) above, existing buildings which are accessory to permitted residential structures and found to be legally constructed yet nonconforming due to setback, height, or other dimensional requirement shall be permitted to be repaired, maintained, or rehabilitated. Where a foundation or slab from a former legally constructed nonconforming accessory building remains intact on the property, the building may be rebuilt or reconstructed provided the slab or foundation meet current building codes. Such buildings, either existing or reconstructed on an existing slab or foundation, may be enlarged when the addition is constructed in a manner so that the addition conforms to zoning requirements in place at the time of the addition.

Sec. 39-39. Discontinuance. [Ord. No. 1014, 12-19-1990; Ord. No. 1188, 2-19-1997]

(a) If the use of any nonconforming structure or land is discontinued through vacancy, lack of operation or otherwise for a continuous period of 365 days or more, then the use of such structure shall not be resumed until such use, or structure conforms to the provisions of this article and that district in which the use, or structure is located.

(b) If the building and zoning inspector finds that the use of any nonconforming structure is discontinued under the provisions of this section, the property owner shall have the burden of proof to substantiate that the use was not discontinued and shall provide adequate documentation thereof.

Sec. 39-40. Buildings under construction. [Ord. No. 1188, 2-19-1997]

To avoid undue hardship, nothing in this article shall be deemed to require a change in the plans, construction or designated use of any structure from the date a building permit was issued by the City's Department of Community and Neighborhood Services if the zoning ordinance is amended prior to completion of a structure. This building permit must be effective, not expired, and issued prior to the date the ordinance amendment was enacted.

Sec. 39-41. Elimination by acquisition. [Ord. No. 1014, 12-19-1990; Ord. No. 1188, 2-19-1997; Ord. No. 1461, 9-6-2006]

The Council may acquire by purchase, condemnation, or otherwise, private property or an interest in private property for the removal of nonconforming uses and structures. The

Council may provide that the cost and expense of acquiring such private property may be paid from general funds or assessed to a special district in accordance with the applicable statutory provisions relating to the creation and operation of special assessment districts for public improvements. Property acquired under this subsection shall not be used for public housing. The elimination of the nonconforming uses and structures in a zone district is declared to be for a public purpose and for a public use. The Council may institute proceedings for condemnation of nonconforming uses and structures under Public Act 149 of the Public Acts of 1911, as amended (MCLA §§ 213.21 — 213.25).

Sec. 39-42. Nonconforming structures conforming in use. [Ord. No. 1419, § 2, 7-20-2005]

(a) Nonconforming structures, conforming in use, may be expanded or reoccupied if the following provisions are met:

(1) Parking be in accordance with this chapter for such structure. Parking spaces legally existing at the time of the enactment of this chapter or amendments thereto may be continued and counted towards the minimum amount of parking spaces required;

(2) Expansion conforms to the present zone district specifications.

(b) In all zoning districts except the R and PRD residential districts, nonconforming structures which are conforming in use may be remodeled and reoccupied for other lawful conforming uses as permitted by right without the need for any variance or special exception review, as long as there are no structural expansions of the building footprint, or all structural expansions conform to the current zone district height and area requirements. If applicable, the requirements for site plan review are still in effect.

(c) In all R and PRD residential districts, nonconforming structures which are conforming in use may be remodeled and reoccupied for other lawful conforming uses when approved as a special exception by the Zoning Board of Appeals pursuant to Section 39-42(d).

(d) The Zoning Board of Appeals shall use the following standards when evaluating special exception requests pursuant to this section:

(1) Expansions of the existing building footprint shall not be allowed, unless all structural expansions conform to the current zone district height and area requirements.

(2) The use and any proposed building expansions shall be in character with and will not be of substantial detriment to adjacent properties.

(3) Parking shall be provided at the ratio required in the parking schedule of this chapter and shall be adequately screened with a fence or vegetative screening materials when deemed necessary by the approving authority.

(4) All new construction and remodeling activities shall comply fully with all other applicable City codes.

(5) Reasonable conditions may be attached on the approval of a special exception under this section if deemed necessary to protect the public health, safety and welfare.

Sec. 39-43. through Sec. 39-44. (Reserved)

ARTICLE IV
Off-Street Parking and Loading

Sec. 39-45. Nonresidential requirements. [Ord. No. 622; Ord. No. 1097, 10-6-1993; Ord. No. 1163, 3-27-1996; Ord. No. 1188, 2-19-1997; Ord. No. 1254, 8-4-1999; Ord. No. 1360, § 3, 3-19-2003; Ord. No. 1419, § 3, 7-20-2005; 3-7-2018 by Ord. No. 1727]

(a) No building shall hereafter be erected or enlarged nor shall any building or land use be changed to another use, unless provision shall be made to provide off-street parking and loading areas in conformance with the requirements herein specified. Parking spaces legally existing at the time of the enactment of this chapter or amendments thereto may be continued and counted towards the minimum amount of parking spaces required. Any person desiring to establish a parking area shall submit plans to the Building/ Zoning Administrator showing the location, size, shape, design, lighting landscape, curb cuts, drainage and other features of the parking area. If such plans comply with the provisions of this article, the Building/Zoning Administrator shall issue a permit to allow the use and occupancy of such parking area upon the completed development of the area. Any use or occupancy of parking areas without the approval of the Building/ Zoning Administrator shall be in violation of this article.

(b) If the parking area was subject to site plan review by the Planning Commission, the applicant shall submit evidence showing compliance with all requirements imposed by the Planning Commission. If such plans comply with the requirements approved by the Planning Commission, the Building/Zoning Administrator shall issue a permit to allow the use and occupancy of the parking area upon the completed development of the area.

(c) With respect to a building expansion which does not require site plan approval, an applicant shall comply with all of the requirements of this chapter or such lesser requirements approved under this subsection. The applicant may apply to the Planning Commission for a special exception determination of parking requirements. The Planning Commission shall determine the parking requirements based on factors set forth in Section 39-25(e). The determination shall not be final until the Commission gives notice to those persons who would receive notice of a site plan review, if one was required. If a written objection is filed with Community and Neighborhood Services's office within 10 days after notice is mailed, the Planning Commission shall conduct a public hearing and make a determination of the parking requirements based on the factors cited above set forth in Section 39-25(e). The Development Department may refer an application under this subsection to the Planning Commission for a parking determination regardless of whether an objection has been filed.

Sec. 39-46. Mixed occupancies. [Ord. No. 464, § 9-1.6; Ord. No. 622; Ord. No. 1188, 2-19-1997]

In the case of mixed uses, the total requirements for off-street parking area shall be the sum of the requirements of the various uses computed separately. Collective provision for off-street parking areas for two or more buildings or uses shall be permitted; provided that the total of such off-street parking spaces shall not be less than the sum of the requirements of the various uses computed separately. Parking areas for churches, theaters or other uses in which the primary parking demand occurs out of normal retail operation hours may be jointly used where adequate arrangements are made to insure that the space is available for each function.

Sec. 39-47. Uses not specified. [Ord. No. 622; Ord. No. 685; Ord. No. 1188, 2-19-1997]

For uses not herein specified or for mixed or unusual uses for which the minimum requirements herein established do not directly apply, parking shall be provided at the ratio of one square foot of usable total parking area for each square foot of floor area, exclusive of basement area used for utility or storage purposes. For outdoor commercial activities or for any use where floor area is an obviously inadequate measure of parking needs, parking shall be provided at the ratio of one square foot of usable total parking area for each square foot of land or water area used for such activity or use.

Sec. 39-48. Off-street parking schedule. [Ord. No. 622; Ord. No. 910, 9-3-1986; Ord. No. 1188, 2-19-1997; 3-7-2018 by Ord. No. 1727]

The minimum amount of off-street parking shall be determined in accordance with the following schedule:

Use	Spaces Per Unit of Measurement
One-family house or apartments, new construction	1.0 per dwelling unit
Converted house and apartments	As determined by Zoning Board pursuant to Section 39-189(c)(5), but in no event less than 2.0 per dwelling unit
Hotel, motel	1.0 per rental unit
Rooming house, fraternity, sorority	0.5 per sleeping room
High school, college, vocational school	1 per 2 teachers, administrators, employees, and 1.0 per 10 students
Elementary or junior high school	1.0 per 2 teachers, administrators, employees
Hospital, nursing home	0.5 per each bed
Library, museum	1.0 per 400 square feet floor area
Governmental office	1.0 per employee
Church	1.0 per 4 seats

Use	Spaces Per Unit of Measurement
Lodges, clubs, meeting halls	1.0 per 6 members
Medical, dental, health office	4.0 per doctor
Other office uses	1.5 per employee
Automotive sales, TBA stores	1.0 per 200 square feet sales area
Funeral home	1.0 per 6 seats
Theater, auditorium, stadium	1.0 per 4 seats
Bowling alley	3.0 per alley
Beauty, barber shop	1.0 per each chair
Restaurant, tavern	1.0 per 100 square feet of service area
Food store	1.0 per 80 square feet sales area
Dry goods, variety store	1.0 per 160 square feet sales area
Carpet, home furnishing store	1.0 per 500 square feet sales area
Banks, financial institutions	1.0 per 200 square feet floor area
Other retail store	1.0 per 200 square feet sales area
Warehousing, storage	1.0 per 2 employees
Manufacturing, processing	1.0 per 2 employees
Repair, service	1.0 per each employee
Research, testing, development	1.0 per 2 employees
Printing, publishing	1.0 per 2 employees
Freight terminals	1.0 per 2 employees
Contractor, construction yard	1.0 per 2 employees
Material sales yard	1.0 per each employee
Agricultural, greenhouse	1.0 per 2 employees
Essential service user	1.0 per 2 employees
Park, public recreation	2.0 per acre
Private pool, athletic club	1.0 per 6 members
Regional shopping centers	3.0 square feet of usable parking area for each square foot of floor area

Sec. 39-49. Size and access. [Ord. No. 464, § 9-1.6; Ord. No. 622; Ord. No. 1188, 2-19-1997]

Each off-street parking space shall have an area of not less than 160 square feet exclusive of access drives or aisles and shall be a minimum of eight feet in width. There shall be adequate provision for ingress and egress to all parking spaces. The total usable parking area includes access drives within the actual parking area.

Sec. 39-50. Units of measurement. [Ord. No. 464, § 9-1.6; Ord. No. 622; Ord. No. 1188, 2-19-1997]

For the purposes of this article, "floor area" shall mean the gross floor area of all floors of a building or an addition to an existing building, but shall not include basement floor area when used for storage purposes only. The number of "employees" shall be determined by the maximum number of persons employed, both part and full time, including all supervisory, office, maintenance, production and other personnel, during any one shift or work period for any given week during the most recent calendar year. For new uses, the number of employees shall be determined by projected peak employment estimates provided by the developer.

Sec. 39-51. Location of off-street parking facilities. [Ord. No. 464, § 9-1.6; Ord. No. 622; Ord. No. 1188, 2-19-1997]

Off-street parking facilities shall be located as hereafter specified. Where a distance is specified it shall be the distance measured from the nearest point of the parking facility to the nearest point of the building that such facility is required to serve, as follows:

(a) For all residential buildings and for all nonresidential buildings in residential zones, required parking shall be provided on the same plot with the building.

(b) For commercial and all nonresidential uses in commercial zones, required parking shall be provided within 300 feet.

(c) For industrial uses, required parking shall be provided within 500 feet.

Sec. 39-52. Community parking in Central Business District. [Ord. No. 622; Ord. No. 1188, 2-19-1997]

All businesses located in the C-3 Central Business District shall be deemed participants in a community parking program and shall be exempt from parking requirements herein specified. For any additional residential use created, additional parking areas shall be provided in accordance with the requirements set forth herein.

Sec. 39-53. Parking lot requirements for all zone districts. [Ord. No. 464, § 9-1.6; Ord. No. 549; Ord. No. 622; Ord. No. 1188, 2-19-1997; Ord. No. 1283, § 1, 8-16-2000; Ord. No. 1411, § 2, 3-30-2005]

Every parcel of land in any zone district hereafter established as a public or private parking area, or any parking area hereafter enlarged or altered, shall be developed and maintained in accordance with the following requirements:

(a) Off-street parking areas shall be surfaced with an asphalt, concrete or similar durable and dustless surface. Off-street parking areas shall be graded and drained to dispose of all surface water in accordance with standard specifications for such construction on file in the office of the City Engineer. Off-street parking areas shall be subject to the approval of the City Engineer to insure its adequacy in relation to traffic safety, protection of the adjacent property, and lighting standards.

(b) The outdoor lighting of parking lots shall comply with the following standards:

(1) All parking lot lighting shall be shielded to reduce glare and shall be so arranged as to direct and deflect light away from all adjacent residential districts and adjacent residences. Lighting shall be directed towards and confined to the ground areas of parking lots.

(2) Outdoor lighting poles, standards, or wall mounting heights shall meet the following requirements:

a. They shall not exceed the maximum height limitations of the district in which they are located.

b. They shall not exceed 16 feet in height from the grade of the parking lot adjacent to the base of each pole when located within 200 feet of a residential zone district, or they shall not exceed 20 feet in height when it is demonstrated by an illumination plan prepared and certified by a licensed electrician, architect, or similar design professional that the illumination level will not exceed 0.5 footcandles at any property line that abuts a residentially zoned property.

c. Recreational field lighting and public streetlighting are exempted from this height limitation.

(c) Where off-street parking areas are established without setback from lot lines, wheel chocks or other restraining devices shall be installed to prevent the encroachment of any portion of parked vehicles into adjoining properties or public areas abutting such parking areas.

(d) Where an area proposed for the development of an off-street parking area contains mature trees, landscaping or other site amenities, effort shall be made, insofar as practical, to preserve such amenities and include them in the overall design of the parking area or facility.

Sec. 39-54. Parking lot requirements for residential zone districts. [Ord. No. 464, § 9-1.6; Ord. No. 549; Ord. No. 622; Ord. No. 1188, 2-19-1997; Ord. No. 1283, § 1, 8-16-2000; Ord. No. 1292, 2-7-2001]

(a) All off-street parking areas required for new multiple-family dwellings and all nonresidential but noncommercial buildings shall be subject to this section.

(b) No part of such off-street parking areas shall extend into the required front yard more than 1/2 of the yard required for a residential building, and where the lot or a portion of the lot lies between two privately owned residential properties, the full front yard setback shall be observed. In either case, the front yard area not occupied by the access drive shall be landscaped.

(c) All such parking areas shall be at least 40 feet in width. No more than 60 contiguous spaces shall be provided without an internal landscaped dividing buffer at least 10 feet in the least dimension.

(d) Such parking areas shall be used solely for the parking of passenger vehicles, and no commercial repair work, sales or service of any kind shall be conducted on such parking lot. No sign, other than entrance, exit, and condition of use signs shall be maintained.

(e) Each entrance to and exit from such parking lot shall be not less than 12 feet distant from any adjacent property located in any residential zone, and the location and design of entrances, exits, surfacing, landscaping, signs and marking and lighting shall be subject to the approval of the City Engineer or his designated representative to insure adequate relation to traffic safety and protection of the adjacent residential area.

Sec. 39-54.1. Parking lot requirements for commercial and industrial zone districts, except the C-3 Central Business District, and commercial and industrial uses in residential zone districts. [Ord. No. 1283, § 1, 8-16-2000; Ord. No. 1360, § 2, 3-19-2003]

(a) A parking lot for commercial or industrial uses shall be no closer than 10 feet from a street, property, or common line with a residentially zoned or residentially used property, and shall be landscaped with natural vegetation. Parking lots shall be effectively screened on any side or rear yard which adjoins premises situated in any residential zone district, residentially used property, or institutional premises by a screening of evergreen hedge, natural landscaping, fence screen or wall screen not less than four feet high; provided, that such screening shall not exceed 30 inches along street property lines. Parking lots in residential zone districts shall also abide by the additional front yard setback and landscaping requirements of Section 39-54(b). After due notice and a public hearing pursuant to the noticing requirements for a site plan review, the Planning Commission may reduce the screening and setback requirements of this section and/or specific requirements noted in the individual commercial and industrial zone districts either as a singular issue, or as a component of a site plan review, if it determines the following:

(1) That alternative fencing and/or landscaping can effectively produce the same screening and separation effect as otherwise required.

(2) That such reduction is necessary to allow the reasonable improvement of the site.

(3) That such improvements will not be detrimental to adjacent residential properties.

(b) Expansions of existing nonconforming parking lots shall comply with the requirements of this section provided that Community and Neighborhood Services may reduce the screening and setback requirements for such expansions in accordance with the review standards of Section 39-54.1(a)(1) through (3). Community and Neighborhood Services may refer these requests to the Planning Commission for its final determination, in which case a public hearing will be held.

(c) No portion of the public right-of-way lying between the sidewalk line and the traveled portion of a street shall be surfaced or used for parking purposes except by the explicit approval of City Council. Parking areas established and so used at the effective date of this article may be continued until revoked by City Council.

Sec. 39-55. Required off-street loading and unloading space. [Ord. No. 464, § 9-1.6; Ord. No. 622; Ord. No. 1188, 2-19-1997]

(a) In all districts, every building or part thereof, hereafter erected, which is to be occupied by manufacturing, storage, warehouse, goods display, retail store or block of stores over 10,000 square feet in floor area, wholesale store or warehouse, market, hotel, hospital, mortuary, laundry, dry cleaning or other uses similarly requiring the receipt or distribution in vehicles of materials or merchandise, there shall be provided and maintained, on the same premises with such building, off-street loading spaces in relation to floor area as follows:

(1) Up to 20,000 square feet, one space;

(2) Twenty thousand square feet to 50,000 square feet, two spaces;

(3) Fifty thousand square feet to 100,000 square feet, three spaces;

(4) One additional space for each additional 100,000 square feet or part thereof.

(b) Each loading space shall comply with the following requirements:

(1) Each loading space shall be at least 10 feet in width, 25 feet in length and 14 feet in height.

(2) Such space may occupy part of a required yard or court space.

(3) No such space shall be located closer than 50 feet to any lot in any residential district, unless wholly within a completely enclosed building or enclosed on all sides facing residential zones by a wall or uniformly painted solid board or masonry fence of uniform appearance which is not less than six feet in height.

Sec. 39-56. Off-street parking required—residential structures in all zones. [Ord. No. 622; Ord. No. 1188, 2-19-1997; Ord. No. 1226, 10-7-1998; Ord. No. 1260, 8-18-1999; Ord. No. 1517, § 1, 9-3-2008; Ord. No. 1576, 1-18-2012; 2-6-2019 by Ord. No. 1762]

(a) Parking on a residential lot shall be limited to the parking of the following vehicles:

(1) Passenger motor vehicles which do not accommodate more than nine passengers;

(2) Motorcycles;

(3) Recreational vehicles;

(4) Trucks not exceeding two tons in carrying capacity; and

(5) Riding lawnmowers.

The parking of trucks exceeding two tons in carrying capacity and the parking of buses on a residential lot shall be limited to the parking of those vehicles for deliveries, service calls, and other short duration parking.

(b) A front yard of a lot shall not be used for the parking of a vehicle listed under Subsection (a), except on a clearly designated driveway or parking space with a finished surface of asphalt, concrete, pavers, permeable pavers, grass pavers or another similar durable surface, or on a nonconforming, established driveway or parking space as defined by Section 18-29(a)(2). For purposes of this subsection, on a corner lot, each yard adjoining a street shall be considered a front yard.

(c) No driveway approach shall be installed except in conjunction with approved curb cuts and driveway approach regulations as specified by the City Engineer in Chapter 32 and in accordance with the requirements of Section 39-58 of this article.

(d) Parking of vehicles is only allowed on a durable surface in the Central Neighborhood District.

Sec. 39-57. New residential structures in all zones. [Ord. No. 622; Ord. No. 1188, 2-19-1997; Ord. No. 1226, 10-7-1998; Ord. No. 1260, 8-18-1999; Ord. No. 1517, § 2, 9-3-2008]

For new one-family and two-family dwellings hereafter erected, or every dwelling unit created by conversion, one improved off-street parking space shall be provided for each dwelling unit. Such parking space shall be constructed with concrete, asphalt, permeable pavement, grass pavers or other similar surfaces as approved by the Zoning Administrator and shall be made accessible to a street by means of a similarly constructed driveway. Such driveway and parking space shall also comply with the requirements of Section 39-58 of this article.

Sec. 39-58. Residential driveways, parking spaces and driveway approaches—all zones. [Ord. No. 1226, 10-7-1998; Ord. No. 1260, 8-18-1999; Ord. No. 1357, 2-5-2003; Ord. No. 1517, § 3, 9-3-2008]

(a) Permits.

(1) A person shall not establish or expand an asphalt, concrete, pavers, permeable pavement, grass pavers or another similar durable surfaced driveway or parking space without first obtaining a permit.

(2) A permit application shall be submitted to the Building/Zoning Administrator showing the location, size, shape, design, and surface material of the driveway or parking space and the name, address, telephone number, and licensing information of the person performing the work. If the application complies with

this section, then the Building/Zoning Administrator shall issue a permit for the construction and use of such driveway or parking space.

(3) A person shall not commence any work within the public right-of-way without obtaining a permit from the Department of transportation services.

(4) A driveway or parking space shall be made accessible to the public street by an asphalt, concrete, pavers or similar durable surface constructed driveway approach.

(b) Placement of driveways and parking spaces within 25 feet of street rights-of-way. Neither a driveway nor a parking space shall be placed directly between a residential structure and the street right-of-way, or in the front corner on a corner lot, except for a driveway to a vehicle entrance of a garage attached to the residential structure. Additional driveway or parking area such as expanded driveway width, parking for recreational vehicles and turnaround accommodations may be constructed in residential yards only when located 25 feet or more from a street right-of-way.

(c) Driveway and parking space dimensions. The Planning Commission, or in the case of administrative review, the City staff, shall establish appropriate driveway and parking space widths for residential developments subject to site plan review. For residential developments not subject to site plan review, the width of a driveway or parking space shall not be limited, except as otherwise set forth in Subsection (b) of this section.

(d) Driveway approaches. The Planning Commission, or in the case of administrative review, the City staff, shall determine the number of driveway approaches for residential developments subject to site plan review. For residential developments not subject to site plan review, only one driveway approach per street front shall be permitted. Exceptions to these requirements are as follows:

(1) An additional driveway approach is necessary to provide access to parking serving multiple residential units on a single lot, or cumulative paving of the front yard will not exceed 40% of the yard area.

(2) If street frontage on any one street exceeds 140 feet for a single lot or multiple lots under common ownership.

Sec. 39-59. Parking space determination by the Zoning Board of Appeals. [Ord. No. 1357, 2-5-2003]

The Zoning Board of Appeals may grant a special exception to vary or modify the number of parking spaces required per this chapter. The Board shall consider applications for parking determinations based on the applicant's special circumstances to alleviate the need for the number of spaces required by this Article IV, Off-Street Parking and Loading. The applicant shall need to demonstrate that such varying or modification will not be detrimental to adjacent properties including properties situated immediately across the street from the subject property. The Board shall not have the authority to modify parking requirements imposed by the Planning Commission during a site plan review process.

Sec. 39-60. Parking location determination by the Zoning Board of Appeals. [Ord. No. 622; Ord. No. 1097, 10-6-1993; Ord. No. 1188, 2-19-1997; Ord. No. 1226, 10-7-1998; Ord. No. 1260, 8-18-1999; Ord. No. 1270, 2-2-2000; Ord. No. 1357, 2-5-2003]

The Zoning Board of Appeals may grant a special exception for parking between the residential structure and the street right-of-way if the applicant demonstrates that such varying or modification will not be detrimental to adjacent properties including properties situated immediately across the street from the subject property, and the applicant demonstrates one of the criteria in this section.

(a) That varying or modifying the driveway, parking space, or driveway approach requirements is the only manner to permit reasonable use of a residential lot or to provide two independently accessible parking spaces for the residential lot, and where there is insufficient lot dimension to the sides or rear of the residential structure to allow passage of a vehicle to the side or rear of the lot and that there is no alternative access to the side or rear of the lot via an alley or other dedicated access or easement.

(b) That traffic conditions on the adjoining street warrant the varying or modifying of the driveway, parking space, or driveway approach requirements of this chapter in order to better address safety concerns. Traffic conditions to be considered may include but not be limited to the posted speed limit, adequate site distances at the driveway intersection with the street, the traffic counts on the street both over a twenty-four-hour period and during peak hour times, and whether on-street parking is allowed on the adjoining street. Such request shall be granted only where there is no less intrusive alternative for safely entering or exiting.

Sec. 39-61. Violations. [Added 10-7-2015 by Ord. No. 1659]

A person who violates Section 39-54 or 39-56 is responsible for a Class II civil infraction and is subject to the civil fines set forth in the schedule of fees and charges adopted in Section 2-118 of this Code or any other relief that may be imposed by the court. Each act of violation and each day upon which such violation occurs shall constitute a separate violation.

Sec. 39-62. Paving and parking on traditional residential properties in the Central Neighborhood District overlay area. [Added 3-7-2018 by Ord. No. 1726; amended 2-6-2019 by Ord. No. 1762]

(a) Purpose. The Central Neighborhood District (CND) is a defined overlay area encompassing portions of the Education District (ED) and the Traditional Residential Neighborhood District (R-TRN). The purposes of these zoning districts as set forth in Sections 39-280 and 39-320 are reaffirmed and incorporated in this section. The CND area contains large areas of properties with traditional residential structures on small lots and large areas owned and used by long-standing educational institutions, which also include some traditional residential structures on small lots. Most of the small residential lots owned and used by the educational institutions benefit from a broader unified parking plan utilized by the institutions. Residential lots within the CND area face increasing pressure to develop in ways inconsistent with preserving the aesthetic value of such residential properties and the residential qualities of their neighborhoods. These pressures include the development of large paved parking areas on traditional

residential properties that increase the noise and congestion from the number of vehicles in the area, in addition to those vehicles that park on the street during the day. This pressure detracts from the desirability of owner-occupied residences and the stability of the neighborhood.

(b) Rear and side yard paving. For properties with traditional one- to four-family unit residential structures in the Central Neighborhood District, the amount of paved areas for vehicle access and parking located in rear and side yard areas shall be generally consistent with that of adjoining properties and neighboring properties on the same block. Plans to provide paved areas in the Central Neighborhood District for vehicles that are determined to be greater in area than the amounts of paved areas generally consistent with that of adjoining properties and neighboring properties on the same block may be permitted:

(1) In one side yard only covering an area up to 75% of the side yard area. For a side yard less than 14 feet in width, a minimum paved area of 10 feet is allowed. Landscaping and screening in the form of natural vegetation and/or fencing are required to buffer and soften the view from neighboring properties when side yard paving exceeds a width of 10 feet.

(2) For a corner lot, the maximum paving within the side yards is up to 50% of the yard area with paving set back a minimum of 10 feet from the public sidewalk or street right-of-way. Landscaping and screening in the form of natural vegetation and/or fencing are required to buffer the view from neighboring properties. Notwithstanding where adequate dimension exists, this shall not prohibit a driveway with a minimum width of 10 feet entering from the street.

(3) On up to 50% of the rear yard if landscaping and screening in the form of natural vegetation and/or fencing are provided to buffer and soften the view of the side and rear yard paved surfaces from neighboring properties.

(4) The remainder of the rear yard shall be green space.

(c) Violations. A person who violates this Section 39-62 is responsible for a Class II civil infraction and is subject to the civil fines set forth in the schedule of fees and charges adopted in Section 2-118 of this Code or any other relief that may be imposed by the court. Each act of violation and each day upon which such violation occurs shall constitute a separate violation. Violations are also deemed a nuisance per se.

Sec. 39-63. through Sec. 39-64. (Reserved)

ARTICLE V
Automotive Sales Areas, Garages, Service Stations and Other Drive-in Facilities

Sec. 39-65. Generally. [Ord. No. 464, § 9-1.7; Ord. No. 1188, 2-19-1997; Ord. No. 1216, 8-19-1998]

(a) Every parcel of land hereafter used as an automobile or trailer sales area or as an automobile service station shall be subject to the requirements of Sections 39-45 to 39-

59; except, that in the case of an automobile service station the requirement concerning screening on that side which faces premises situated in a residential district or institutional premises shall apply only to that area used for parking.

(b) No building, structure or premises shall be used, erected or converted which is intended or designed to be used as a drive-in facility, public garage, automobile repair shop or gasoline service station within 300 feet of any portion of any building used as a school, church, hospital, public library or institution for dependents or for children; provided, however, that this section shall not apply to the C-3 Central Business District, nor shall this section prohibit the redevelopment of gasoline sales facilities in the C-1 Neighborhood Commercial District existing on January 1, 1998, that have their gasoline fueling activities and the display of liquid accessories located within 132 feet of a state or federal trunkline.

Sec. 39-66. through Sec. 39-68. (Reserved)

ARTICLE VI
Industrial and Commercial District Regulations

DIVISION 1
Site Plan Review Applicable to Commercial Districts C-1, C-2, C-3, C-4 and C-5 and Industrial Districts I-1, I-2 and Planned Unit Development District PUD[7]

Sec. 39-69. Accessory uses of commercial and industrial yards. [Ord. No. 1239, 3-24-1999]

The following accessory uses or encroachments shall not be deemed inconsistent with the intent and purpose of maintaining open unoccupied commercial and industrial yard spaces, and may be permitted in required commercial and industrial yard areas. In no case, however, shall any commercial or industrial yard area be used for any purpose or in any manner which would adversely effect the reasonable enjoyment of adjoining properties, or which would be likely to create or increase a nuisance.

(a) The following commercial and industrial accessory uses shall be permitted:

(1) Arbors, trellises, yard ornaments, statuary, or flagpoles.

(2) Eaves or awnings projecting not more than three feet beyond the face of a wall, but in no case closer than one foot to property line.

(3) Plantings, shrubs, landscaping and indigenous vegetation.

(4) Parking of passenger vehicles in approved parking areas and surfaces.

(5) Pole mounted yard lights.

(6) Brick veneer or other new exterior wall surfacing to existing buildings.

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7. Editor's Note: The title of this Division 1 was amended 10-20-2010 by Ord. No. 1551.

(7) Signs which are permitted by Article IX of this chapter.

(8) Bay windows and chimneys projecting not more than three feet from the face of a wall and encroaching no closer than five feet to any property line.

(9) Mailboxes installed or mounted in accordance with federal law.

(10) Fences and screening which comply with the following limitations:

a. In commercial districts, they shall not exceed six feet in height in side and rear yards and four feet in height in front yards and side yards adjoining a side street.

b. In industrial districts, they shall not exceed eight feet in height in side and rear yards and four feet in height in front yards and side yards adjoining a side street.

c. Fence gates shall not swing over a public sidewalk.

(11) Accessory recreational equipment, including picnic tables and barbecues.

(12) Pad mounted air-conditioning, heating or ventilating equipment.

(13) Accessory buildings in commercial and industrial districts used for the storage of lawn care and other equipment for the purpose of on-site maintenance, with the following limitations:

a. Maximum size of 120 square feet.

b. No accessory building allowed in any required front yard area.

c. Maximum of one accessory building per lot pursuant to these requirements.

d. If the accessory building is 60 feet or more from any front yard property line, it is permitted two feet from a side or rear lot line.

(14) Swimming pools as permitted by Section 39-195.

(15) Refuse storage facilities, in accordance with Chapter 27 of this Code.

(16) Accessory uses not specifically itemized, but which are similar in nature and scope to any of the foregoing uses, recognized as appropriate and approved during the site plan review process.

(17) Strings of lights on private property. All lights shall be maintained in good condition and shall not flash, blink, oscillate, have any appearance of movement, create a nuisance or be hung in a way which could be considered a sign. **[Added 1-2-2019 by Ord. No. 1760]**

(b) In addition to the foregoing, fences of unrestricted height, playground equipment, shelters or pavilions, fountains, sculpture and similar installations of a scale not commonly found in commercial and industrial yards may be permitted in conjunction with permitted uses and approved during the site plan review process.

(c) Notwithstanding the foregoing, no fence, hedge, vegetation, obstruction, or other accessory use shall be permitted or maintained, which materially impedes traffic visibility across a corner lot, or otherwise obstructs required open spaces in a manner that constitutes a hazard to the safe use of public streets and sidewalks as determined by the Police Department.

Sec. 39-69.1. Site plan review. [Ord. No. 1188, 2-19-1997; Ord. No. 1239, 3-24-1999]

Due to the impact of commercial and industrial development in the City, the Planning Commission shall conduct a site plan review for projects in any "C" district or the I-1 District when required by Article II of this chapter.

DIVISION 2
I-1 Industrial District

Sec. 39-70. Intent and permitted uses. [Ord. No. 464, § 9-1.8; Ord. No. 723; Ord. No. 1188, 2-19-1997; Ord. No. 1455, 5-24-2006; Ord. No. 1482, 10-3-2007; Ord. No. 1506, § 1, 6-18-2008; amended 5-14-2014 by Ord. No. 1628]

The I-1 Industrial District is intended to meet the needs of established and prospective industry within the industrial areas of the City other than an I-2 Industrial District. In addition to manufacturing, fabrication, assembly and similar operations, this district allows material storage and supply, construction trades, automotive services and commercial uses, subject, however, to the requirements and prohibitions set forth in this division. The following uses are permitted therein:

(1) Manufacturing, development, fabrication, compounding, processing, assembly or treatment of materials, substances or objects, except as hereinafter qualified in Section 39-72.

(2) Offices, research, testing or development facilities.

(3) Freight terminals, storage or warehousing.

(4) Storage and distribution of steel, lumber, bricks, blocks and similar construction materials.

(5) Public utility facilities, including manufacturing, treatment, storage and service areas.

(6) Automotive and machinery sales and services.

(7) Construction trades and services.

(8) Wholesale and retail commercial sales and services, including restaurant uses.

(9) Municipal administrative and municipal services.

(10) Indoor archery or firearm range but only if permitted as a special land use pursuant to Sections 39-17.1 and 39-17.2.

(11) Accessory uses that are customarily incidental to any principal use permitted.

Sec. 39-71. Prohibited uses. [Ord. No. 464, § 9-1.8; Ord. 601; Ord. 723; Ord. No. 1188, 2-19-1997; Ord. No. 1455, 5-24-2006; Ord. No. 1482, 10-3-2007; Ord. No. 1506, § 2, 6-18-2008]

Within any area of the City which is zoned as I-1 Industrial District, no building, structure or premises shall be used and no building or structure shall be constructed or altered which is intended or designed to be used in whole or in part for any of the following uses:

(a) As new dwellings, or as conversions of existing dwelling buildings to additional dwelling units;

(b) For hotels, motels, tourist cabins, campgrounds or other facilities providing overnight sleeping accommodations, except municipal administrative and municipal services;

(c) For schools, other than for industrial training purposes, hospitals, clinics, nursing homes and similar institutions or establishments for educational purposes or for providing human care;

(d) For lodges, clubhouses, assembly halls, theaters, auditoriums, churches and other places of assemblage;

(e) For any use which does not conform to all applicable provisions of this Code, statutes and regulations of the City, the state, any department or agency thereof, and the United States of America, or any department or agency thereof.

Sec. 39-72. Uses allowable as special exception uses. [Ord. No. 723; Ord. No. 1188, 2-19-1997]

(a) The following uses may be allowed as special exception uses, whether as principal or accessory uses, subject to the procedures for special exception uses outlined in Section 39-73 of this chapter:

(1) The manufacture of glue size or gelatine; processes involving recovery from fish or animal offal;

(2) The manufacture of volatile, toxic or irritating chemicals;

(3) Acetylene gas manufacture on a commercial scale;

(4) Celluloid or cellulose products manufacture; the manufacture of pyroxylin plastic materials or of products therefrom;

(5) Cement packaging or storage;

(6) Chlorine or bleaching powder manufacture;

(7) Coal yard, gravel yard, mineral stockpile;

(8) Crematory, except in connection with a cemetery;

(9) Creosote manufacture;

(10) Explosives, fireworks or match manufacture or assembly;

(11) Fertilizer manufacture or potash refining;

(12) Metal reduction or smelting or aluminum, copper, iron, tin or zinc ore;

(13) Paint manufacture;

(14) Petroleum refining or bulk storage, or both;

(15) Processing pulp or other materials into paper or cardboard;

(16) Steel furnace, blooming or rolling mill;

(17) The incineration or reduction of dead animals, offal or garbage;

(18) Resource recovery facilities, automobile salvage operations, or junkyards.

(b) In addition to those uses set forth in Subsection (a) above, those uses which, by reason of odor, fumes, dust, smoke or other air pollution, vibration or noise, water disposal, heat, cold, dampness or movement of air, electrical interference or disturbance, atmospheric vibration or disturbance, glare, or the hazard of fire, explosion, atomic or other form of radioactivity, are or could be deleterious either to the industrial district, or to uses lawfully conducted in neighboring districts, may be permitted as special exception uses under the procedures and conditions as hereinafter set forth.

Sec. 39-73. Procedures for special exception uses. [Ord. No. 723; Ord. No. 749; Ord. No. 1188, 2-19-1997; Ord. No. 1461, 9-6-2006]

(a) Any person seeking to use property for any of the aforementioned types of uses in a I-1 Industrial District either as a principal use or as an accessory use shall make application therefore to the Zoning Board of Appeals. The Zoning Board of Appeals shall proceed in accordance with applicable statutes and the provisions of Article XII of this chapter to hear such application. It shall be the duty of the applicant for such special use permit to furnish such information to the Zoning Board of Appeals as may be required relevant to its consideration of the environmental guidelines of Section 39-74.

(b) Approval of any such use shall allow expansion thereof onto additional land in which the applicant has an interest; provided, the applicant specifically requests the Zoning Board of Appeals to consider such additional land in the granting of a special exception. Any expansion onto land not so considered by the Zoning Board of Appeals in the granting of a special exception shall be subject to additional proceedings before the Zoning Board of Appeals in accordance with the requirements of this section.

(c) The applicant shall submit to the City Clerk a legal description of all lands considered by the Zoning Board of Appeals in proceedings pursuant to this section. In the event the Zoning Board of Appeals approves the proposed use as a special exception the Clerk shall, at the expense of the applicant, record a copy of the order of the Zoning Board of Appeals in the office of the registrar of deeds of the county in which such lands are located.

(d) Those uses which exist on November 28, 1979, on land owned and used by the applicant and which would be allowed only as special exception uses, may be continued to the extent of existing operations, and expanded as long as the applicant

does not change, modify or alter the type of equipment operations conducted on November 28, 1979. The expansion of any such use onto additional lands which were not owned and used by the applicant as special exception uses on November 28, 1979, or the change of the existing type of equipment operations shall be subject to additional proceedings before the Zoning Board of Appeals in accordance with the requirements of this section.

Sec. 39-74. Considerations for granting special exception permits. [Ord. No. 723; Ord. No. 1188, 2-19-1997; 3-7-2018 by Ord. No. 1727]

(a) No use shall be permitted under Section 39-73 if it is found that the proposed use would be contrary to any applicable ordinance of the City, or would be injurious to surrounding property and persons by reason of the peculiar operating characteristics of the proposed use. In consideration of the granting of a special exception permit, no use shall be approved which would be contrary to the following environmental guidelines:

(1) Radioactivity. Any use of radioactive substances, isotopes or products shall present no hazard to the health, safety or property of others;

(2) Vibration. Every use shall avoid causing vibration of the land or air to such an extent as to interfere with the reasonable enjoyment of any present or prospective legally conforming use of adjoining or nearby premises;

(3) Noise. Every use shall avoid the emission of noise of such pressure, loudness, pitch or frequency of occurrence, or any combination thereof, which would interfere with the reasonable enjoyment of any present or prospective legally conforming use of adjoining or nearby premises;

(4) Odor. Every use shall avoid the emission of odorous gases or matter in such quantities as to be noxious, offensive or injurious beyond the property line of the parcel devoted to such use, or any present or prospective legally conforming use;

(5) Heat. Every use shall avoid the discharge or exhausting of heated air or water in such quantities as to be detrimental to the reasonable enjoyment of adjoining premises or to plant or animal life downwind or downstream from such discharge;

(6) Nuisance. Every use that may likely be deleterious to, or have an adverse effect on, other uses lawfully conducted within the industrial district, or to uses lawfully conducted in neighboring districts.

(b) The Zoning Board may attach conditions to such approval pursuant to Section 39-407 of this Code and may also attach conditions requiring the applicant to continue to comply with the levels of performance not expressly defined by statute, ordinance or regulation, but which have been represented to the Zoning Board by the applicant in its written application or in representations given to the Zoning Board during the hearing process.

Sec. 39-75. Performance standards. [Ord. No. 723; Ord. No. 1188, 2-19-1997]

Every use permitted in a I-1 Industrial District, either of right or as a special exception, shall comply with the following performance standards:

(a) Environmental protection. Every use shall conform to the environmental guidelines set forth in Items (1) through (6) of Subsection 39-74(a), with respect to radioactivity, vibration, noise, odor, heat and nuisance;

(b) Enclosure. Except for the storage, sale, operation or service of items normally kept or used outside, loading and unloading operations, parking of vehicles, and those uses allowable as special exception uses, all principal permitted uses shall be conducted within an enclosed building;

(c) Screening. Every use which involves the outside storage of materials or the outside processing or handling of materials, shall be fenced or screened by natural vegetation so as to reasonably diminish any adverse effect on nearby premises or the general community.

Sec. 39-76. Height and area regulations. [Ord. No. 723; Ord. No. 1188, 2-19-1997]

The following height and area regulations shall apply within the I-1 Industrial District:

(a) Height. No building shall exceed a maximum of 40 feet in height.

(b) Front yard. There shall be a front yard of not less than 25 feet from the street line; provided, that where an existing setback line has been established by existing buildings occupying 40% or more of the frontage within the same block, such established setback shall apply.

(c) Side yard. There shall be a minimum side yard of 30 feet on each side of a building. Where a lot has an average width of less than 200 feet, the side yard shall not be less 15% of the average width. When a side yard adjoins a side street, the front yard provisions of this section shall apply to the side yard that adjoins the street.

(d) Rear yard. There shall be a rear yard of at least 24 feet.

(e) Side and rear yard exceptions. Where an alley, railroad right-of-way, utility easement, or public open space other than a public street abuts a side or rear property line, 1/2 the width of such space may be counted as part of the required yard.

Sec. 39-77. Compliance with overlay district requirements. [Ord. No. 1298, § 2, 5-23-2001]

The portions of a property that fall within the boundaries of an overlay district per Article VIII, Division 5 of this chapter shall comply with the requirements of the applicable overlay district.

Sec. 39-78. through Sec. 39-79. (Reserved)

DIVISION 3

I-2 Industrial District

Sec. 39-80. Intent and permitted uses. [Ord. No. 625; Ord. No. 691; Ord. No. 1188, 2-19-1997; Ord. No. 1279, 5-3-2000; Ord. No. 1482, 10-3-2007; Ord. No. 1506, § 3, 6-18-2008]

The I-2 Industrial District is intended to provide areas in the City in which industrial uses may be located in such a manner as to preserve and develop land area in a manner consistent with an industrial park concept. It is the purpose of the I-2 zone to require industrial development and uses in areas classified as I-2, which will conform to requirements different from those of the I-1 Industrial District and which will result in industrial park developments. It is the specific purpose of the I-2 zone to provide for open landscaped yards, for off-street parking and loading within the industrial park and for the protection from those conditions which would not be compatible with a concentration of industrial uses. The following uses are permitted:

(a) Manufacturing, development, fabrication, compounding, processing, assembly or treatment of materials, substances or objects.

(b) Offices, research, testing or development facilities.

(c) Freight terminals, storage or warehousing.

(d) Processing, packaging, distribution or servicing of industrial equipment, supplies, materials or products.

(e) Automotive repair services.

(f) Municipal administrative and municipal services.

(g) Accessory uses which are customarily incidental to any principal use permitted by Paragraphs (a) through (e) above.

Sec. 39-81. Prohibited uses. [Ord. No. 625; Ord. No. 691; Ord. No. 1188, 2-19-1997; Ord. No. 1279, 5-3-2000; Ord. No. 1506, § 4, 6-18-2008]

Within any area of the City which is zoned as an I-2 Industrial District, no building, structure or premises shall be used and no building or structure shall be constructed or altered which is intended or designed to be used in whole or in part for any of the following uses:

(a) As new dwellings or as conversions of existing dwelling buildings to additional dwelling units.

(b) For hotels, motels, tourist cabins, campgrounds or other facilities providing overnight sleeping accommodations, except municipal administrative and municipal services.

(c) For schools, other than those for industrial training purposes, hospitals, clinics, nursing homes and similar institutions for educational purposes or for providing human care.

(d) For any commercial use in which the principal use is the retail sale of products, materials or services, except for those uses that are expressly allowed in Section 39-80.

(e) For any use which does not conform to all applicable provisions of this Code, statutes and regulations of the City, the state or any department or agency thereof, and the United States of America or any department or agency thereof.

Sec. 39-82. Allowable special uses—enumerated. [Ord. No. 625; Ord. No. 691; Ord. No. 1188, 2-19-1997]

(a) The following uses may be allowed as special uses hereunder, whether as principal or accessory uses:

(1) The manufacture of glue, size, or gelatine; processes involving recovery from fish or animal offal.

(2) The manufacture of volatile, toxic, or irritating chemicals.

(3) Acetylene gas manufacture on a commercial scale.

(4) Celluloid or cellulose products manufacture; the manufacture of pyroxylin plastic material or of products therefrom.

(5) Cement packaging or storage.

(6) Chlorine or bleaching powder manufacture.

(7) Coal yard, gravel yard or mineral stockpile.

(8) Crematory, except in connection with a cemetery.

(9) Creosote manufacture.

(10) Explosives, fireworks or match manufacture or assembly.

(11) Fertilizer manufacture or potash refining.

(12) Metal reduction or smelting of aluminum, copper, iron, tin or zinc ore.

(13) Paint manufacture.

(14) Petroleum refining or bulk storage or both.

(15) Processing pulp or other materials into paper or cardboard.

(16) Steel furnace, blooming or rolling mill.

(17) Incineration or reduction of dead animals, offal or garbage.

(18) Resource recovery facilities, automobile salvage operations or junkyards.

(19) Fiberglass manufacturing operations.

(b) In addition to those uses set forth in Subsection (a) above, those additional uses which, by reason of odor, fumes, dust, smoke or other air pollution, vibration or noise, waste disposal, heat, cold, dampness or movement of air, electrical interference or disturbance, atmospheric vibration or disturbance, glare or the hazard of fire, explosion, atomic or other form of radioactivity, are or could be deleterious either to industrial or

commercial activities lawfully conducted within the industrial district or to uses lawfully conducted in neighboring districts may be permitted as special exception uses under the procedures and conditions as set forth in Sections 39-83 and 39-84.

Sec. 39-83. Procedures. [Ord. No. 691; Ord. No. 1188, 2-19-1997; Ord. No. 1461, 9-6-2006]

(a) Permit; application. Any person seeking to use property for any of the types of uses specified in Section 39-82 as allowable in an I-2 Industrial District, either as a principal use or as an accessory use, shall make application therefore to the Zoning Board of Appeals. The Zoning Board of Appeals shall proceed in accordance with applicable statutes and the provisions of Article XII of this chapter, to hear such application. It shall be the duty of the applicant for such special use permit to furnish such information to the Zoning Board of Appeals as may be required relevant to its consideration of the granting of such permit.

(b) Approval; expansion. Approval of any such use shall allow expansion thereof onto additional land in which the applicant has an interest; provided, that the applicant specifically requests the Zoning Board of Appeals to consider such additional land in the granting of a special exception. Any expansion onto land not so considered by the Zoning Board of Appeals in the granting of a special exception shall be subject to additional proceedings before the Zoning Board of Appeals in accordance with the requirements of this section.

(c) Description of lands; copy of order. The applicant shall submit to the City Clerk a legal description of all lands considered by the Zoning Board of Appeals in proceedings pursuant to this section. In the event the Zoning Board of Appeals approves the proposed use as a special exception, the Clerk shall, at the expense of the applicant, record a copy of the order of the Zoning Board of Appeals in the office of the register of deeds of the county in which such lands are located.

Sec. 39-84. Considerations. [Ord. No. 625; Ord. No. 691; Ord. No. 1188, 2-19-1997; 3-7-2018 by Ord. No. 1727]

(a) No use shall be permitted under Section 39-82 if it is found that the proposed use would be contrary to any applicable ordinance of the City or would be injurious to surrounding property or persons by reason of the peculiar operating characteristics of the proposed use. The following factors shall be included in the consideration of the granting of a special exception permit:

(1) Radioactivity. Any use of radioactive substances, isotopes or products shall present no hazard to the health, safety or property of others.

(2) Vibration. Every use shall avoid causing vibration of the land or air to such an extent as to interfere with the reasonable enjoyment of any present or prospective legally conforming use of adjoining or nearby premises.

(3) Noise. Every use shall avoid the emission of noise of such pressure, loudness, pitch or frequency of occurrence, or any combination thereof, which would

interfere with the reasonable enjoyment of any present or prospective legally conforming use of adjoining or nearby premises.

(4) Odor. Every use shall avoid the emission of odorous gases or matter in such quantities as to be noxious, offensive or injurious beyond the property line of the parcel devoted to such use or to any present or prospective legally conforming use.

(5) Heat. Every use shall avoid the discharge or exhausting of heated air or water in such quantities as to be detrimental to the reasonable enjoyment of adjoining premises or to plant or animal life downwind from such discharge.

(b) The Zoning Board may attach conditions to such approval pursuant to Section 39-407 of this Code and may attach conditions requiring the applicant to continue to comply with the levels of performance not expressly defined by statute, ordinance, or regulation, represented to the Zoning Board by the applicant in its written application or in representations given to the Zoning Board during the hearing process.

Sec. 39-85. Height and area regulations. [Ord. No. 691; Ord. No. 778; Ord. No. 1188, 2-19-1997; Ord. No. 1425, 10-5-2005; Ord. No. 1543, 3-17-2010; Ord. No. 1696]

The following height and area regulations shall apply within the 1-2 Industrial District:

(a) Height. No building shall exceed a maximum of 100 feet in height.

(b) Front yard. There shall be a front yard of not less than 25 feet. A seventy-five-foot front yard shall be required for parcels that abut or are located across the street from a residentially zoned or used property.

(c) Side yard. For all buildings other than those specifically enumerated in Section 39-12 of this chapter, there shall be side yards of dimension equaling at least the height of the building; no side yard to be less than 30 feet. Where a side yard adjoins a side street, the front yard provisions of this section shall apply.

(d) Rear yard. There shall be a rear yard of at least 24 feet.

(e) Side and rear yard exceptions. Where an alley, railroad right-of-way, utility easement or public open space other than a public street abuts a side or rear property line, half the width of such space may be counted as part of the required yard.

(f) Lot coverage. Irrespective of yard area requirements, the maximum building coverage of any parcel of land within the I-2 Industrial District shall not exceed 60% of the gross area of the parcel upon which such buildings are situated.

(g) Lot area and width. The minimum parcel in an I-2 Industrial District shall be two acres, and shall have a minimum average width of not less than 200 feet.

(h) Screening. Every use which involves the outside storage of materials or the outside processing or handling of materials shall be so conducted and screened as to reasonably diminish any adverse effect on nearby premises or on the general community.

Sec. 39-86. Conformance with environmental guidelines. [Ord. No. 1144, 5-3-1995; Ord. No. 1188, 2-19-1997]

Every use permitted within an I-2 zone, whether of right or as a special exception, shall conform to the environmental guidelines set forth in Items (1) through (5) of Subsection 39-84(a), with respect to radioactivity, noise, vibration, odor, and heat.

Sec. 39-87. Compliance with overlay district requirements. [Ord. No. 1298, § 2, 5-23-2001]

The portions of a property that fall within the boundaries of an overlay district per Article VIII, Division 5 of this chapter shall comply with the requirements of the applicable overlay district.

Sec. 39-88. through Sec. 39-94. (Reserved)

DIVISION 4
C-1 Neighborhood Commercial District

Sec. 39-95. Permitted uses. [Ord. No. 464, § 9-1.11; Ord. No. 533; Ord. No. 594; Ord. No. 1188, 2-19-1997; Ord. No. 1470, 3-21-2007; amended 6-4-2014 by Ord. No. 1630; 10-7-2015 by Ord. No. 1660; Ord. No. 1732]

The C-1 Neighborhood Commercial District is intended primarily to meet the neighborhood shopping and merchandising needs of particular residential areas. The following uses are permitted herein:

(a) Commercial sales and services which are strictly retail in nature, including, but not being limited to, the following types of uses:

(1) Bakery;

(2) Bank or other financial institution;

(3) Barber and beauty shop;

(4) Dry-cleaning and laundry pickup station;

(5) Office;

(6) Retail store;

(7) Shoe repair shop;

(8) Art- and craft-making studios, galleries, and shops;

(9) Art and craft schools;

(10) Music and dance studios;

(11) Photographic and film production services.

(b) Residential use of a building or premises, or a portion thereof, if the building conforms to Chapter 6.

(c) Short-term rentals as allowed in Chapter 14 with a certificate of compliance.

(d) Light assembly uses but only if permitted as a special land use pursuant to Sections 39-17.1 and 39-17.3.

(e) Accessory uses that are necessary and incidental to any principal use permitted by this division are hereby permitted, including necessary incidental manufacturing, processing or storage of goods for sale, subject to the following exceptions and limitations:

(1) The killing of animals or fowl is prohibited.

(2) A minimum of 50% of the products manufactured, processed or stored on the premises shall be held for sale at retail on such premises.

(3) No more than two persons shall be engaged in manufacturing or processing activities, as distinguished from retail sales activities, on such premises.

(4) All such accessory uses shall not produce any noise, vibrations, odors, or heat that extends beyond the property line.

(f) Municipal off-street parking.

Sec. 39-96. Prohibited uses. [Ord. No. 464, § 9-1.11; Ord. No. 601; Ord. No. 1188, 2-19-1997]

Within any C-1 District, no building, structure or premises shall be used and no building or structure shall be erected or altered which is intended or designed to be used in whole or in part for any of the following prohibited uses:

(a) Manufacturing, processing, industrial storage, or other industrial use, or a wholesale business, except when permitted as an accessory use under Subsection (d) of Section 39-95.

(b) Every accessory use which constitutes, creates or increases a nuisance in fact, so as to adversely affect a legally conforming use of adjoining or nearby premises.

(c) Hotels, motels and trailer parks.

(d) Any use not permitted by Section 39-95.

Sec. 39-97. Required conditions. [Ord. No. 464, § 9-1.11; Ord. No. 977, 6-21-1989; Ord. 1131, 11-16-1994; Ord. No. 1188, 2-19-1997; Ord. No. 1216, 8-19-1998; Ord. No. 1280, 6-7-2000; Ord. No. 1298, § 2, 5-23-2001; Ord. No. 1339, 7-2-2002; Ord. No. 1387, § 1, 6-2-2004]

The following conditions are required within any C-1 District:

(a) Enclosure. All business, service, or processing shall be conducted wholly within a completely enclosed building, except for the following uses and goods:

(1) Sidewalk and outdoor cafes pursuant to Chapter 32 hereof;

(2) Gasoline fueling activities and the display of liquid accessories associated with a gasoline sales facility that are within 132 feet of a state or federal trunkline; and

(3) Merchandising and display of seasonal merchandise such as garden, lawn and recreational goods, excluding vehicle sales, designed and intended for outside use. All pricing and identification signage shall be directly affixed to the goods and shall have a maximum sign area of 100 square inches. All outside display of goods shall be screened from adjacent Residentially zoned properties with a minimum four-foot opaque fence so as to reasonably diminish any adverse effect on nearby premises or the general community.

(b) Off-street parking. Off-street parking shall be provided in accordance with Sections 39-45 to 39-59, except only 50% of the required parking per use is required in this district.

(c) Residential uses. Residential uses shall meet all the requirements of the R-2 District; provided, that residential yard spaces are not required for one accessory dwelling unit.

(d) Pick-up windows. For legally conforming retail and service uses within 100 feet of a state trunkline or a street designated as a major street by the City of Holland, where located within a C-1 Neighborhood Commercial District, a pick-up window accessible to pedestrian and/or vehicles is permitted provided that:

(1) Separate and remote sign order panels and exterior communication speakers are not permitted;

(2) Vehicular access windows to said pick-up window is from a private driveway and does not create a safety hazard for pedestrian or other vehicles; and

(3) Pick-up windows with vehicular access are separated from adjacent residentially zoned or used properties by at least 25 feet and screened with dense and continuous evergreen landscaping and/or fencing at least six feet in height.

(e) Compliance with overlay district requirements. The portions of a property that fall within the boundaries of an overlay district per Article VIII, Division 5 of this chapter shall comply with the requirements of the applicable overlay district.

Sec. 39-98. Height and area regulations. [Ord. No. 464, § 9-1.11; Ord. No. 778; Ord. No. 1188, 2-19-1997; Ord. No. 1280, 6-7-2000]

The following height and area regulations shall apply within any C-1 District, except as provided in Subsection (c) of Section 39-97, and except as provided in Section 39-98.1:

(a) Height. No building shall exceed a maximum of 35 feet in height.

(b) Front yard. There shall be a front yard of not less than 25 feet from the street line; provided, that where an existing setback line has been established by existing commercial buildings occupying 40% or more of the business zoned frontage within the same block, such established setback shall apply.

(c) Side yard. No side yard is required; except, that where a side yard adjoins any R-1, R-2, or R-3 Residential District, or a side street, a seven-foot yard is required, unless an

existing setback line of less than this required distance has been established by existing commercial buildings occupying 40% or more of the business-zoned frontage within the same block, in which case the established setback shall apply.

(d) Rear yard. There shall be a rear yard of at least 24 feet where property abuts any residential zone district; provided, that where an alley separates the commercial zone from the residential zone, the full alley width may be counted as part of the required rear yard.

Sec. 39-98.1. Height and area regulations for traditional neighborhood commercial areas. [Ord. No. 1280, 6-7-2000]

(a) [Areas to which regulations apply.] The following height and area regulations shall apply to the areas listed as follows:

(1) Area bounded by properties with frontage on 8th Street on the north; Fairbanks Avenue north of 16th Street and Lincoln Avenue south of 16th Street on the east; 24th Street extended on the south, and Ottawa Avenue on the west.

(2) All C-1 Neighborhood Commercial District properties located within 400 feet of where the center line of South Shore Drive intersects the center line of Myrtle Avenue.

(3) All C-1 Neighborhood Commercial District properties located within 400 feet of where the center line of 32nd Street intersects the center line of Columbia Avenue.

(b) Height. No building shall exceed a maximum of 35 feet in height.

(c) Front yard. There shall be a front yard extending the entire width of the principal building of not less than zero feet from the street right-of-way line. In no case shall a front yard be greater than 10 feet from the street right-of-way line. This maximum yard restriction shall not apply to any accessory buildings.

(d) Side yard. No side yard is required, except that where a side yard adjoins an R Residential District, a seven-foot yard is required. Side yards on a side street shall have a side yard not greater than 10 feet. This maximum yard restriction shall not apply to any accessory buildings.

(e) Rear yard. There shall be a rear yard of at least 24 feet where property abuts any residential zone district, provided that where an alley separates the commercial zone from the residential zone, the full alley width may be counted as part of the required rear yard.

(f) Additions to existing structures. Additions or alterations to existing structures, conforming in use, that reduce nonconforming front yards or side yards on a side street shall be permitted without regard to the maximum yard requirements of this section.

Sec. 39-99. Administrative relief for persons adversely affected by prohibitions of Section 39-96. [Ord. No. 464, § 9-1.11; Ord. No. 723; Ord. No. 1188, 2-19-1997; Ord. No. 1461, 9-6-2006]

Any person aggrieved by the prohibitions of Section 39-96 may apply to the Zoning Board of Appeals for a hearing. The Zoning Board of Appeals shall proceed in accordance with applicable statutes and the provisions of Article XII to hear such application. The applicant shall have the burden of proving to the Zoning Board of Appeals that:

(a) The proposed use would be essentially a retail commercial use in nature, as contrasted with wholesale or industrial uses, and thereby would be consistent with the character of the C-1 Neighborhood Commercial District;

(b) The proposed use at the proposed location would not constitute or be likely to create or to increase a nuisance in fact.

In reaching a decision on Subsection (b) of this section, the Zoning Board of Appeals shall apply the environmental guidelines established in Paragraphs (a)(1) through (6) of Section 39-74, so as to reasonably protect all legally conforming uses, present and prospective, of adjoining and nearby premises.

Sec. 39-100. Access areas and off-street parking. [Ord. No. 464, § 9-1.11; Ord. No. 1188, 2-19-1997]

Whenever a C-1 Neighborhood Commercial District is established in such a location that the only access to a public right-of-way lies across not more than 132 feet of intervening residentially zoned property, access drives and off-street parking shall be permitted in the area lying between such C-1 Neighborhood Commercial District and such public right-of-way; provided, that such off-street parking shall conform to the requirements of Sections 39-45 to 39-59.

Sec. 39-101. through Sec. 39-114. (Reserved)

DIVISION 5
C-2 Highway Commercial District

Sec. 39-115. Permitted uses. [Ord. No. 464, § 9-1.10; Ord. No. 627; Ord. No. 872; Ord. No. 942, 5-4-1988; Ord. No. 1188, 2-19-1997; Ord. No. 1342, 8-7-2002; Ord. No. 1474, 5-2-2007; amended 5-14-2014 by Ord. No. 1628; 6-4-2014 by Ord. No. 1630; Ord. No. 1732]

The C-2 Highway Commercial District is intended to meet general commercial and warehousing needs of the community. The following uses are permitted therein:

(a) Any use permitted in the C-3 Central Business or the C-1 Neighborhood Commercial Districts.

(b) Commercial uses, including, but not being limited to, the following types of uses:

(1) Marina and boat-docking facilities;

(2) Automotive sales and services;

(3) Storage or warehousing, excluding freight terminals;

(4) Building trades and services, and construction materials (except as hereinafter prohibited);

(5) Sexually oriented businesses; and

(6) Wholesale businesses.

(c) Light manufacturing uses including the development, fabrication, compounding, processing, assembly or treatment of materials, substances or objects that comply with the further required conditions of this division.

(d) Residential use of a building or premises, or a portion thereof, if the building conforms to Chapter 6.

(e) Short-term rentals as allowed in Chapter 14 with a certificate of compliance.

(f) Indoor archery or firearm range, but only if permitted as a special land use pursuant to Sections 39-17.1 and 39-17.2.

(g) Light assembly uses, but only if permitted as a special land use pursuant to Sections 39-17.1 and 39-17.3.

(h) Accessory uses that are necessary and incidental to any principal use permitted by this division are hereby permitted.

Sec. 39-116. Prohibited uses. [Ord. No. 464, § 9-1.10; Ord. No. 601; Ord. No. 723; Ord. No. 942, 5-4-1988; Ord. No. 1188, 2-19-1997]

Within any C-2 District, no building, structure or premises shall be used and no building or structure shall be erected or altered which is intended or designed to be used in whole or in part for any of the following prohibited uses:

(a) Any uses listed in Subsections (1) to (18) of Subsection 39-72(a), or which cannot conform to the environmental limitations and conditions applicable to those uses categorized by Subsections 39-72(a) and (b).

(b) Any use not permitted by Section 39-115.

Sec. 39-117. Required conditions. [Ord. No. 464, § 9-1.10; Ord. No. 535; Ord. No. 627; Ord. No. 942, 5-4-1988; Ord. No. 1199, 9-24-1997; Ord. No. 1188, 2-19-1997; Ord. No. 1199, 9-3-1997; Ord. No. 1298, § 2, 5-23-2001; Ord. No. 1387, § 2, 6-2-2004; Ord. No. 1474, 5-2-2007]

The following conditions are required within any C-2 District:

(a) Noncommercial uses. Residential, institutional and other noncommercial uses shall meet the requirements of the R-2 District.

(b) Off-street parking. Off-street parking shall be provided in accordance with the requirements of Article IV (Sections 39-45 to 39-59) of this chapter, and shall be screened or fenced wherever such parking abuts or faces residential premises. For every parking lot developed as a principal or accessory use in a C-2 District, there shall be provided on lands contiguous to such parking lot an area or areas of open space, planted and landscaped with natural vegetation, at a ratio of not less than one square foot of landscape area for each 10 square feet of parking area. Where any parking lot exceeds 200 feet in any dimension, it shall further be required that at least 50% of the required landscaped open space be provided within the parking lot as opposed to the perimeter of the lot, so as to mitigate the adverse aesthetic impact of large masses of uninterrupted blacktop or concrete. No parking lot shall be closer than 10 feet to any street, property, or common line with a residential district line. This 10 feet shall be planted and landscaped with natural vegetation.

(c) Storage of material. The outside storage of material or merchandise shall be limited to accessory storage customarily incidental to a permitted principal use of the premises, and shall be screened or fenced wherever such storage abuts or faces residential premises.

(d) Vehicle storage. The storage of vehicles in a C-2 District, as contrasted to the parking of vehicles by invitees, customers, or permittees, shall be limited to the parking of vehicles used in the conduct of a business, or to vehicles stored for sale or service on the premises. Unlicensed or inoperable trucks or trailers shall not be used for the storage of merchandise, material or stock on the premises. Vehicles which are physically and visibly damaged to a point of inoperability, and are stored on commercial premises awaiting repair, shall be stored in a fully enclosed fenced or screened area. As used in this division, fenced or screened shall be deemed to mean a solid wood or brick fence not less than five feet in height, or an open-weave fence supplemented by landscape materials of sufficient density to provide a comparable screening effect.

(e) Flag lots. Except as may be approved as a platted lot in a recorded subdivision, it is intended that the creation of a "flag lot" in a C-2 Commercial District be subject to the procedures and requirements of Section 39-196 of this chapter.

(f) Compliance with overlay district requirements. The portions of a property that fall within the boundaries of an overlay district per Article VIII, Division 5 of this chapter shall comply with the requirements of the applicable overlay district.

(g) Sidewalk and outdoor cafes. Pursuant to Chapter 32.

(h) [Light manufacturing uses.] Light manufacturing uses shall comply with the following conditions:

(1) None of the uses listed in Section 39-72(a) shall be allowed;

(2) Eligible properties shall be located within the area bounded by Lincoln Avenue, Central Avenue, 48th Street and US 31;

(3) The total enclosed area of the business shall not exceed 10,000 square feet;

(4) No more than 10 employees are working on the premises at any one time;

All manufacturing uses shall not produce any noise, vibrations, odors, or heat that extends beyond the property line.

Sec. 39-118. Height and area regulations. [Ord. No. 464, § 9-1.10; Ord. No. 778; Ord. No. 942, 5-4-1988; Ord. No. 1188, 2-19-1997; amended 3-6-2013 by Ord. No. 1602]

The following height and area regulations shall apply within any C-2 District, except as provided in Subsection (a) of Section 39-117:

(a) Height. No building shall exceed a maximum of 45 feet in height.

(b) Front yard. There shall be a front yard of not less than 50 feet from any street.

(c) Side yard. There shall be side yards of not less than 25 feet on either side of a building or structure.

(d) Rear yard. There shall be a rear yard of at least 25 feet.

(e) Narrow lot provisions. On any lot having a width of less than 200 feet at any street line, the minimum setback required from such street may be reduced to a distance of not less than 25% of the width of such street frontage, but in no case less than 25 feet.

(f) Side and rear yard exceptions. Where a railroad right-of-way abuts a side or rear property line, half the width of such space may be counted as part of the required yard.

Sec. 39-119. Administrative relief for persons adversely affected by prohibitions of Section 39-116. [Ord. No. 464, § 9-1.10; Ord. No. 723; Ord. No. 942, 5-4-1988; Ord. No. 1188, 2-19-1997; Ord. No. 1461, 9-6-2006]

Any person aggrieved by the prohibitions of Section 39-116 may apply to the Zoning Board of Appeals for a hearing. The Zoning Board of Appeals shall proceed in accordance with applicable statutes and the provisions of Article XII to hear such application. The applicant shall have the burden of proving to the Zoning Board of Appeals that:

(a) The proposed use would be essentially a commercial use consistent with the character of the C-2 Highway Commercial District;

(b) The proposed use at the proposed location would not constitute or be likely to create or to increase a nuisance in fact.

In reaching a decision on Subsection (b) of this section, the Zoning Board of Appeals shall apply the environmental guidelines established in Paragraphs (a)(1) through (6) of Section 39-74, so as to reasonably protect all legally conforming uses, present and prospective, of adjoining and nearby premises.

Sec. 39-120. (Reserved)[8]

8. **Editor's Note: Former Section 39-120, which pertained to moratorium on development in specified C-2 Highway Districts, adopted 1-17-2001 by Ord. No. 1290, was repealed 6-6-2007 by Ord. No. 1478.**

Sec. 39-121. through Sec. 39-124. (Reserved)

DIVISION 6

C-3 Central Business District

Sec. 39-125. Intent. [Ord. No. 1333, 5-1-2002[9]]

The City adopts the regulations set forth in this Division 6 to regulate land uses in the C-3 Central Business District in order to meet the needs of the residents of the City of Holland for places of trade, service, assembly, residence, recreation, and other uses of land; to insure that uses of the land shall be situated in appropriate locations and relationships; to facilitate adequate and efficient provision for transportation systems, utility infrastructure, recreation, and other public service and facility needs; and to promote public health, safety, and welfare. Regulations adopted herein facilitate the unique and distinctive mixed use and pedestrian-friendly environment that define and are necessary for a viable and secure downtown, provide safety and security for pedestrians, and insure the appropriate locations and relationships between uses and the public that differentiate the C-3 Central Business District, by allowing land use and development relationships that are consistent with the City's "Broadening the Vision: A Strategic Plan for Downtown Holland".

Sec. 39-126. General. [Ord. No. 1333, 5-1-2002]

(a) Zone district designation. There shall be only one commercial district designated as the C-3 Central Business District. Only property contiguous to the C-3 Central Business District or property included within the area master planned by the City for downtown expansion may be rezoned to C-3 Central Business District.

(b) Downtown Development Authority. In order to be zoned within the C-3 Central Business District, property must be included within the boundaries of the Downtown Development Authority as they may from time to time hereafter be amended.

(c) Street designations. The "A" and "B" streets within the Central Business District described as follows are shown on maps kept on file in the offices of the City Clerk, Department of Community Services and Development, Zoning Administrator, and the Downtown Development Authority.

(1) "A" pedestrian destination streets (also known as type "A" streets). The following streets shall be "A" pedestrian destination streets (also known as type "A" streets):

A future 5th Street between Central and College;

6th Street including only the first 80 feet of frontage to the east and west of each intersection;

9. Editor's Note: This ordinance amended Division 6, adopted 7-20-1988 by Ord. No. 957, as amended 6-21-1989 by Ord. No. 978 and 2-19-1997 by Ord. No. 1188, in its entirety.

7th Street from 80 feet west of River Avenue to 80 feet east of Columbia Avenue including only the first 80 feet of frontage to the east and west of each intersection;

8th Street (entire length);

9th Street from Pine Avenue to 80 feet east of Lincoln Avenue including only the first 80 feet of frontage to the east and west of each intersection;

10th Street from 80 feet west of River Avenue to 80 feet east of Central Avenue;

11th Street from 80 feet west of River Avenue to River Avenue;

Pine Avenue including only the first 80 feet of frontage to the north and south of 8th Street;

River Avenue (entire length);

Central Avenue (entire length);

College Avenue (entire length), including a future College Avenue extension to the north;

Columbia Avenue (entire length); and

Lincoln Avenue including only the first 80 feet of frontage to the north and south of 8th Street.

Exceptions. Those portions of the above streets within 50 feet of the center line of a railroad crossing.

(2) "B" secondary streets (also known as type "B" streets). All streets, or portions of streets, that are not "A" streets shall be "B" secondary streets (also known as type "B" streets).

Sec. 39-127. Permitted, prohibited and special uses. [Ord. No. 1333, 5-1-2002; Ord. No. 1387, § 3, 6-2-2004; Ord. No. 1420, 7-20-2005; Ord. No. 1732]

(a) Permitted uses. The following uses, either separately or in any combination, are specifically permitted in the C-3 Central Business District:

(1) Retail and wholesale commercial sales except where specifically prohibited in Subsection (b) below and except as allowed as special uses.

(2) Service providers.

(3) Office uses.

(4) Research and development offices and laboratories.

(5) Recreation and entertainment uses, including but not limited to theaters, performance facilities, health clubs and gymnasiums, community recreation facilities, billiard parlors and gaming facilities.

(6) Art galleries, museums, arts and crafts studios, and libraries.

(7) Educational facilities and places of worship.

(8) Restaurants and drinking establishments.

(9) Hotels and lodging.

(10) Convention, meeting, and exhibition facilities.

(11) Passenger transportation terminal.

(12) Park, plaza, garden, and other improved public or private open space, recreation areas, public restrooms, public informational kiosks, and community centers.

(13) Governmental administrative, service, or public market uses.

(14) Printing and publishing.

(15) Parking.

(16) Residential uses, excluding single-family residential uses in detached, single-use, single-family structures.

(17) Short-term rentals as allowed in Chapter 14 with a certificate of compliance.

(18) Sidewalk and outdoor cafes only as an accessory use pursuant to Article V of Chapter 32 hereof.

(19) Accessory uses that are customarily incidental to any principal use permitted in this section, provided that such uses are in conjunction with an existing permitted use on the premises, such uses are consistent with other requirements of this division, and provided further that such accessory uses shall not constitute, create or increase a nuisance in fact, which adversely affects a legal use of adjoining or nearby premises.

(b) Prohibited uses. Except where allowed as a special use, no building, structure or premises shall be used and no building or structure shall be erected or altered which is intended or designed to be used, in whole or in part, for any of the following prohibited uses:

(1) Manufacturing, processing, industrial storage, or other industrial use except where continued use is allowed as a special use under Section 39-127(c).

(2) Machinery sales and service.

(3) Automobile sales, repair, and service; and sale of automobile/vehicular fuel and other liquid accessories.

(4) Outdoor advertising for products or services not provided on site.

(5) Outdoor vending machines, excluding newspaper vending boxes and automatic teller machines, where both visible from and located within 50 feet of the public right-of-way.

(6) Junkyards, scrap yards, recycling processes.

(7) Outside storage of sand, gravel or other aggregates.

(8) Drive-in or drive-through services, except drive-through banking services or drive-through restaurant services allowed as a special use under Section 39-127(c).

(9) Private telecommunications switching equipment and private utilities as a principal building use on the street level.

(10) Every use which constitutes, creates or increases a nuisance in fact so as to adversely affect a legally conforming use of adjoining or nearby premises.

(11) Any use not permitted by Section 39-127.

(c) Permitted with special uses. The Planning Commission shall allow the following uses as special uses provided they satisfy the specific criteria stated below and satisfy other provisions of this Chapter 39. Review for such special use applications shall occur through the site plan review process consistent with procedural requirements of Article II of this chapter.

(1) Notwithstanding Article III, expansion of legally existing nonconforming industrial, automotive sales and service, and warehousing uses shall be allowed as a special use provided that:

a. Exterior alterations to the structure and site conform to requirements of Section 39-128.

b. Expansion of buildings and site storage and/or display use is limited to 20% each of the square footage of existing building and site storage/display use, respectively, existing as of the date of the adoption of this section.

c. The nonconforming industrial, automotive sales and service, and/or warehousing use has not been discontinued as provided in Section 39-39; and

d. The Planning Commission determines such alterations or expansions satisfy each of the following criteria:

1. The alteration or expansion, along with any associated additional or relocated parking needs or truck access, do not negatively impact pedestrian areas along type "A" streets.

2. New associated trucking, parking, and vehicular access areas shall not occupy street frontage building or site area to a depth of 25 feet from the street line along type "A" streets.

(2) Drive-through banking services shall be allowed as special uses, provided that the Planning Commission determines such use satisfies each of the following criteria:

a. Such services shall only be to the side or rear of the principal building, with no portion of the actual drive-through structure or equipment located closer than 50 feet from a type "A" street;

b. Stacking lanes for such use shall not cross pedestrian sidewalks; and

c. Driveways exiting such drive-through facilities are no wider than 12 feet exiting onto a one-way street and 24 feet exiting onto a two-way street where the driveway crosses the sidewalk.

(3) A commercial building designed to be leased or occupied primarily by one tenant with a street level floor area in excess of 30,000 square feet, provided that the building and site satisfy all of the following criteria:

a. The building provides a second floor, with floor area totaling at least 60% of the street level floor area, designed and constructed and used for nonstorage uses;

b. The building has at least one entrance in every 60 feet of building frontage along each type "A" street that it abuts; and

c. Requirements of Section 39-128.

(4) Drive-through restaurant services shall be allowed as special uses, provided that the Planning Commission determines such use satisfies each of the following criteria:

a. The restaurant is in operation on June 14, 2005;

b. There shall be no new or relocated curb cuts allowed onto "A" streets;

c. Such drive-through services shall only be to the side or rear of the principal building, with no portion of the actual drive-through structure or equipment located closer than 50 feet from a Type "A" street;

d. Stacking lanes for such use shall not cross pedestrian sidewalks; and

e. Driveways exiting such drive-through facilities are no wider than 12 feet exiting onto a one-way street and 24 feet exiting onto a two-way street where the driveway crosses the sidewalk.

Sec. 39-128. Performance requirements. [Ord. No. 1333, 5-1-2002; 3-7-2018 by Ord. No. 1727]

All development, additions, site alterations, and street-level facade alterations within the C-3 Central Business District are subject to the following procedures and performance requirements.

(a) Review process:

(1) Planning Commission review. Where site plan review is otherwise required, review and approval regarding compliance with requirements of this section shall be conducted by the Planning Commission during the site or development plan review process as described in Article II of this chapter.

(2) Administrative review. All street-level facade alterations and site alterations not otherwise requiring site plan review shall be submitted to the Department of Community Services and Development for review and approval. Review of such proposed work shall be conducted administratively by the Department of

Community Services and Development. Where staff is required to make a discretionary determination according to requirements of this section, notice of the application shall be published in a local newspaper and shall be given to owners of the property and to residents and property owners within 300 feet of the subject property not less than seven nor more than 15 days before the application will be considered.

At the initiative of the Planning Commission or official responsible for approving requests, upon the written request of a resident or property owner within 300 feet made within 15 days of the mailing of notification, or upon written request of the applicant, a public hearing shall be held before the Planning Commission with notification as required above and a decision on whether to approve the site alteration and/or street-level facade alteration shall be made by the Planning Commission. A request for a public hearing shall be filed with the Department of Community Services and Development. If the applicant or official responsible for approving the application requests a public hearing, only notification of the public hearing need be made.

A decision on an application shall not be made unless notification of the application is given as required by this article. If a public hearing is not requested or required, a decision on the request shall be made within 21 days of the receipt of a complete application. This time may be extended upon mutual agreement of the applicant and the City. If a public hearing is not conducted, and the application is not approved within the 21 days after receipt, or within an agreed-upon extension, the application shall be deemed denied without prejudice.

In this administrative review process, any person aggrieved by the determination of the Department may appeal the decision within 10 days in writing to the Planning Commission. Such an appeal shall be filed with the Department of Community Services and Development. An appeal shall stay all further proceedings, and shall be heard by the Commission at its next regularly scheduled meeting, at which time the Commission shall sustain or modify the determination of the Department. Any appeal of a determination by the Commission may be taken to a court of competent jurisdiction.

(b) Pedestrian environment. All work shall support and enhance pedestrian use, character, and safety by satisfying the following criteria, and shall:

(1) Building entrances.

a. All buildings shall have a minimum of one primary entrance opening to the adjacent sidewalk of the street on which the building fronts.

b. Where public parking or private parking is available to patrons, residents, and/or employees to the rear of a building, whether on the subject property or on a site adjacent to the subject property, an additional entrance shall be located to provide access to such parking.

(2) Street level building facades. In order to assure compatibility with other buildings in the C-3 Central Business District and to promote a safe and enjoyable walking environment, proposed new construction of and renovation or alteration to exterior street-level building facades facing a type "A" street meet the

requirements of Section 39-29. Application of this subsection may be determined by the Planning Commission to be eligible for the optional plan review process.

(3) Glazing for visibility and security. Given the nature of pedestrian activity in the C-3 Central Business District and the desire to promote a safe pedestrian environment, all glazing at street level shall be transparent to allow visual contact between individuals within and outside the building. Reflective glass and nontransparent glass are not permitted along sidewalks and public open space areas adjoining street-level facades. Application of this subsection may be determined by the Planning Commission to be eligible for the optional plan review process.

(4) Exemption for existing industrial uses. Lawfully nonconforming industrially used structures, including additions or alterations thereto, shall not be required to comply with the requirements of Sections 39-128(b)(2), 39-128(b)(3), or 39-29.

(c) Yard and height requirements. All new construction and expansion of existing buildings shall comply with the following requirements:

(1) Required front yard.

a. For purposes of this section, all yards of a lot with frontage along a street shall be considered a front yard.

b. Buildings and structures along a type "A" street shall have a maximum front yard requirement of six feet.

c. Front yards along type "A" streets may be increased by the Planning Commission during site plan review where the Planning Commission determines all of the following conditions exist. The additional yard area:

1. Provides a special pedestrian-oriented feature such as, but not limited to, a publicly accessible plaza or garden or outside dining area which adds amenity to the pedestrian character of the street;

2. Does not create a significant interruption in the continuity of street level pedestrian movement and interest;

3. Is compatible and integrated with adjoining properties and nearby public improvements; and

4. Is not for the purpose of providing parking and/or drive-through access between the building and an "A" street.

d. Front yards along a "B" street shall have a maximum front yard requirement of 25 feet. Application of this subsection may be determined by the Planning Commission to be eligible for the optional plan review process.

e. Where lots have frontage on more than one street, the following shall apply:

1. Buildings and structures located on corner lots shall meet the yard requirements for each intersecting street.

2. Buildings and structures located on through lots with frontages along two parallel streets shall satisfy the yard requirements along only the more restrictive parallel street (type "A" is more restrictive than type "B").

3. In the case where a site has frontage on more than two streets, the Planning Commission shall determine which streets warrant the required yards.

f. For properties north of 6th Street and east of Central Avenue, buildings containing multiple residential units including residential uses along the street level shall have the maximum front yard increase to 12 feet where such additional yard area is utilized as an entry or porch zone serving the building, where such yard area is integrated with the public sidewalk area as a pedestrian area, or where such yard is incorporated as garden area with the intention of both enhancing the street level character of the property and providing additional privacy to street level residential uses.

g. Additions to existing structures. Additions or alterations to existing structures, conforming in use or otherwise allowable under this division, that reduce nonconforming yards shall be permitted without regard to the maximum front yard requirements of this section. Under this provision, an addition or alteration to an existing structure, conforming or otherwise allowable under this division, shall be permitted if it decreases the side yard, notwithstanding that the addition or alteration may create front yard space in front of the addition or alteration that does not comply with the maximum front yard requirements of Section 39-128(c)(1).

(2) Required side yard. New buildings along type "A" streets shall be constructed to the side property line. The Planning Commission may approve a greater setback where the Commission determines a proposed break in building continuity will be developed as a publicly accessible park or through-block pedestrian connection; where such a break in continuity is otherwise permitted and necessary as driveway access into a site; where the size and placement of the proposed building cannot readily be changed to occupy the full site frontage; or where phasing of development on a site will over time result in a continuous building frontage along the type "A" street.

(3) Required rear yard. No rear yard is required.

(4) Building height.

a. Commercial and residential buildings exceeding a building footprint of 800 square feet fronting along a type "A" street shall be constructed not less than two habitable stories or 26 feet in height, whichever is less. Additions to such buildings that are proposed further than 50 feet from the type "A" street shall not be required to meet this minimum height. Application of this subsection may be determined by the Planning Commission to be eligible for the optional plan review process.

b. No building or structure shall exceed a maximum of 75 feet in height except as allowed under Section 39-12.

(d) Vehicular access, parking, service requirements. All new development and proposed alterations to building sites within the C-3 Central Business District shall be designed to protect pedestrian safety, enhance the character of the pedestrian environment, and mitigate possible negative impacts from such vehicular conditions.

(1) Parking requirements. No off-street parking is required for nonresidential uses within the C-3 Central Business District. All nonresidential uses located in the C-3 Central Business District shall be deemed participants in a community parking program per Section 39-52 and any applicable City-adopted policies therein, and shall be exempt from parking requirements of Article IV of this chapter. Parking for any new residential use shall be provided in accordance with the requirements set forth in Article IV of this chapter. Where on-site parking for that residential use is not available, parking requirements may be met in accordance with the policies promulgated by the City or its Downtown Development Authority for the use of its designated downtown public parking areas for long term and/or overnight parking.

(2) Access to site.

a. Access to parking or off-street loading from a type "A" street is prohibited except where the Planning Commission determines all of the following criteria are satisfied:

1. Access is not available from a type "B" street;

2. Driveway width is minimized and such access is compatible with the manner of access along nearby portions of the affected street; and

3. Such access does not have a significant negative impact on pedestrian movement and safety.

b. Application of this subsection may be determined by the Planning Commission to be eligible for the optional plan review process.

(3) Placement of parking.

a. Parking shall not be located between a building and street line of an "A" street. This applies only to that portion of the site where the frontage of the building is intended to satisfy the "A" street yard requirements.

b. All parking areas shall be set back at least eight feet from all street-fronting property lines, with the required setback area landscaped, or the setback may be reduced to three feet where the setback area includes a continuous brick wall 30 inches in height and landscaping between the wall and sidewalk.

c. For residential uses, outdoor surface parking shall be set back from the street line a minimum of 25 feet along type "A" streets and shall not be accessed directly from any type "A" street except by a shared driveway where no access is available from a type "B" street. Only garage doors providing access to common, shared parking areas are permitted along type "A" streets. Garage doors and individual driveways serving garages of individual residences are not permitted facing and within 25 feet of a type

"A" street. Application of this subsection may be determined by the Planning Commission to be eligible for the optional plan review process.

d. Parking garages/decks located along type "A" streets shall integrate permitted nonparking street level uses for at least the first 25 feet in depth along type "A" street frontages. Entrances and exits shall be from type "B" streets, wherever possible. Application of this subsection may be determined by the Planning Commission to be eligible for the optional plan review process.

(4) Landscaping and lighting of parking.

a. Design of parking lots shall comply with Sections 39-53 and 39-54.1.

b. Landscaping of the lot interior. In addition to perimeter landscaping, interior areas of parking lots exceeding 20 parking spaces shall be landscaped with natural vegetation in the amount of one square foot of landscaping for every 20 square feet of parking area. For purposes of interpretation, landscaping in this subsection may include trees, shrubs, ground cover, and grass. For planter islands in parking areas that include tree wells, surrounding landscaped areas may include streetscape pavers in place of plant materials.

c. Lighting. Lighting for parking areas shall be in accordance with the requirements of Section 39-53.

(5) Required off-street loading and unloading space. Provision of loading shall comply with Section 39-55, provided that, notwithstanding Section 39-55(b)(2), off-street loading shall not be located between a building and street line of an "A" street. This applies only to that portion of the site where the frontage of the building is intended to satisfy the "A" street yard requirements.

(6) Service area, loading docks, and trash/recycling/dumpster locations. All service areas, including but not limited to loading docks, trash dumpsters, recycling containers, and other disposal areas shall be located and screened to minimize visibility from publicly accessible areas.

Sec. 39-129. Other required conditions. [Ord. No. 1333, 5-1-2002]

(a) All activities within enclosures. All business, servicing or processing shall be conducted wholly within a completely enclosed building except for:

(1) Outside display of merchandise for sale on private property, including but not limited to automobiles, bicycles, and other objects of transportation, by a tenant or owner of the property; and

(2) Sidewalk cafes pursuant to Chapter 32 of this Code.

(b) Environmental performance standards. All uses in the C-3 Central Business District shall comply with the environmental guidelines pertaining to radioactivity, vibration, noise, odor, heat and nuisance as enumerated in Section 39-74.

Sec. 39-130. Optional plan review (OPR) for development within the C-3 Central Business District. [Ord. No. 1333, 5-1-2002; amended 3-7-2018 by Ord. No. 1727]

(a) Purpose and intent.

(1) Section 39-128 establishes the performance requirements for design and development of buildings and property in the C-3 Central Business District. The expectation is that these requirements will be satisfied by every development; however, circumstances arise which those provisions do not address or did not foresee. Therefore, this section establishes an alternative process by which the Planning Commission may evaluate and approve a development project that does not meet certain standards of Section 39-128.

(2) It is the intent of the OPR to permit modest flexibility in the regulation of development projects to achieve successful integration of a project with the characteristics of the central business area. The OPR process establishes a mechanism to review and address special problems or opportunities and unique proposals or circumstances which cannot otherwise be accommodated within the standards of the C-3 Central Business District. Sections 39-29 and 39-128 form the basic framework that will be used to evaluate an OPR development project, but specifically identified requirements may be modified by the Planning Commission in the approval of an application.

(b) Application and procedure. Review under this section of the ordinance is intended to only occur under unusual circumstances where, during the course of administrative or Planning Commission review under the otherwise applicable sections of this division, special circumstances are identified relating to the property or the proposed development by the Planning Commission that warrant consideration under the provisions of the OPR. Prior to the formal submission of an application for a site plan or development plan review of a proposed project within the C-3 that anticipates utilizing the OPR for allowing some variation from specified requirements, the applicant shall submit a preliminary site plan for study session review by the Planning Commission. The Commission will not vote on the request at this time but will provide reaction and advice regarding the proposed development and the applicability of ordinance requirements. The applicant may subsequently submit an application for site or development plan approval, clearly indicating any sections of the ordinance where OPR consideration is requested. The application shall be processed in accordance with the procedural requirements of Section 39-23, with special note in public notices of any OPR consideration requested.

(c) Review and approval.

(1) In considering an application for plan approval using the OPR process, the Planning Commission shall not approve such application unless it determines that:

a. The variation requested is generally consistent with the intentions of the C-3 Central Business District, and will not impair the public health, safety, and welfare;

b. The extent of variation from the applicable requirements of Section 39-128 is modest in the context of the proposed development and nearby properties;

c. There is public benefit or amenity proposed to be created that is created and/or enhanced by the variation if permitted;

d. Such use and/or variation from the specific standard will not result in a violation of Section 39-74 regarding environmental impact covering radioactivity, vibration, noise, odor, heat, and nuisance;

e. There is no negative impact presented by those variations on existing and future development in the area;

f. The variation will not cause substantial detriment to the value of other property in the area;

g. The variation will not impede the normal and orderly development and improvement of surrounding property for uses permitted within the district;

h. Adequate site improvements have been or will be made to accommodate the proposed variation;

i. The variation will not result in impacts on ingress and egress that will negatively impact pedestrian or vehicular traffic; and

j. There are circumstances applying to the property or the proposed development that do not generally apply to other properties and development (existing and proposed) in the same zone district.

(2) The applicant bears the burden of demonstrating that there are unusual circumstances relating to the property or the proposed development, that the justification for variation relative to the issues identified above are sufficient to warrant the flexibility provided for under this section, and that the proposed variation and development are consistent with each of the standards described above.

(d) Variations not permissible. A variation shall not be approved where such variation:

(1) Allows an intrusion of motor vehicles into a pedestrian environment;

(2) Is solely for the purpose of gaining additional usable space within a building; or

(3) Is requested only for increased financial return.

Sec. 39-130.1. Administrative relief for persons adversely affected by prohibitions of Section 39-127. [Ord. No. 1333, 5-1-2002; Ord. No. 1461, 9-6-2006; 3-7-2018 by Ord. No. 1727]

(a) Any person aggrieved by the prohibitions of Section 39-127(b) may apply to the Zoning Board of Appeals for a hearing. The Zoning Board of Appeals shall proceed in accordance with applicable statutes and the provisions of Article XII to hear such

application. The applicant shall have the burden of proving to the Zoning Board of Appeals that:

(1) The proposed use would be essentially a retail commercial use or service-oriented in nature or a pedestrian-oriented use, as contrasted with an industrial use, and thereby would be consistent with the character of the C-3 Central Business District.

(2) The proposed use at the proposed location would not constitute, or be likely to, create or to increase a nuisance.

(b) In reaching a decision on Subsection (a)(2) of this section, the Zoning Board of Appeals shall apply the environmental guidelines established in Subsection (a)(1) through (6) of Section 39-74, so as to reasonably protect all legally conforming uses, present and prospective, of adjoining and nearby premises. The Zoning Board of Appeals shall also apply the site plan requirements of this chapter and requirements of Section 39-128 in order to assure that the proposed use is otherwise compatible with C-3 Central Business District development.

DIVISION 6.1
Windmill Island Neighborhood Business District

Sec. 39-131. Intent. [Ord. No. 1213, 6-3-1998]

It is the intent of this district to be consistent with and facilitate the orderly implementation of the Windmill Island Development Master Plan ("Master Plan"), as initiated and approved by Holland City Council. The Planning Commission shall adopt the Master Plan as a component of the 1992 Master Plan for the physical development of the City, as amended, prior to the Commission's approval of a development plan. Copies of the Master Plan document are on file in the offices of the City Clerk, Department of Community Services and Development, Downtown Development Authority, and the Windmill Island trust/authority/ managing entity.

For purposes of establishing a basis for zoning designation, the Scenario for Development of the Windmill Island Master Plan, dated June 25, 1997, shall serve as the City's interim Master Plan for Windmill Island until adoption of the Master Plan.

The Master Plan and this zone district have as its purposes the realization of the following objectives for the business, commercial, residential, and governmental development of Windmill Island:

(a) Windmill Island as a business and commercial district integral with downtown Holland;

(b) Windmill Island as a new pedestrian-oriented mixed use business district and neighborhood;

(c) Windmill Island as a place of community culture and history;

(d) Windmill Island as a central place within an environmentally sensitive region-wide "greenway" open space network;

(e) Windmill Island as a public gathering place for community-wide celebration of Dutch heritage by residents and visitors alike for business, commercial, residential, and governmental development; and

(f) Windmill Island as a business, commercial, and residential development to strengthen the tax base; halt declining property values through development; and to promote the economic growth and development of the City.

It is intended that the business, commercial, residential, and governmental development within this publicly owned and controlled zone district shall enjoy maximum latitude and flexibility in utilization of land and facilities, provided consistency is maintained with the Master Plan. Where inconsistencies exist between the approved Master Plan and the provisions of Chapters 32 (Streets and Sidewalks) and 33 (Subdivisions), and the City's requirements for site condominiums referencing standards and provisions of Chapters 32 and 33, the requirements of the Master Plan shall prevail.

Sec. 39-132. Establishment, development plan review, procedures. [Ord. No. 1213, 6-3-1998; amended 3-7-2018 by Ord. No. 1727]

(a) Establishment of zone district. The Windmill Island Neighborhood Business District is hereby established in accordance with the terms of this division.

(b) Development plan. The use of any lands within this district shall be contingent upon the submission and approval of a development plan and the faithful adherence to that plan. It is anticipated that the development plan will be part of and consistent with the Master Plan as approved by the City Council. The development plan approval shall supersede and be in lieu of any other plan review process of this chapter.

(c) Development plan approval. The development plan shall be submitted by the City through the Department of Community Services and Development for review and approval by the Planning Commission.

(1) Plan review. The development plan shall be reviewed by the Planning Commission to determine whether the plan conceptually conflicts with any plans or policies of the City and whether the development plan meets the goals and objectives of Section 39-131(a) through (f). The primary focus of Commission review shall be the potential impacts of this development on surrounding properties and infrastructure.

(2) Submission requirements. In order to consider the development plan, 17 copies of the following materials shall be submitted at least 21 days prior to the public hearing:

a. Preliminary development plan indicating property boundaries, division of land, and proposed general locations for streets, buildings, and utilities. The development plan shall differentiate between land which is to be privately used from that which will remain in public use, and shall specifically designate land which is to be dedicated for public use as a public park. The development plan shall also include any private restrictive covenants proposed to control and restrict the development of Windmill Island and

such additional documentation as the applicant or the Commission shall deem relevant relating to the review of the development plan.

b. Urban design narrative including:

1. Development framework and design intentions;

2. Preliminary design guidelines for public and private development, with discussion of such elements of the plan as:

(i) Pedestrian environment, streetscape, landscape;

(ii) Building location, appearance, performance;

(iii) Vehicular access, parking, service requirements;

(iv) Infrastructure, including utilities, streets, and drainage; and

(v) Other elements of the plan, including but not limited to signage, lighting, outdoor dining, outdoor display and storage, and nuisances;

3. Statement of maximum development density; and

4. Statement of anticipated development schedule and phasing.

(3) Development plan review procedure.

a. Distribution of plan. The Department of Community Services and Development shall distribute copies of the development plan to the Board of Public Works, Department Public Safety, City Engineer and the Department of Community and Neighborhood Services. The development plan shall be reviewed and comments developed with respect to applicable ordinances and policies and to assure the safe and efficient delivery of community services. Upon completion of these reviews, the Department of Community and Neighborhood shall provide copies of the comments and findings to the City and Planning Commission. In the event the proposal includes development within the floodway or floodplain, the proposal shall be reviewed and comply with requirements of Chapter 6, Article V, Floodplain Management Provisions, of this Code.

b. Public hearing. Prior to a decision on the development plan, the Planning Commission shall conduct a public hearing to solicit comments regarding the proposed plan, subject to publication of notice and mailing of notice to all properties within 300 feet of the parcel to be developed.

c. Final approval. A determination of approval of the development plan shall be deemed final when approved by the Planning Commission. A report of the Planning Commission findings shall be submitted to City Council. Upon final approval, an affidavit shall be recorded with the register of deeds by the applicant, indicating such approval has been granted.

d. Conditions of approval. The approval of the development plan may be subject to the establishment of reasonable conditions. Without limitation on

the type of conditions to protect the health, safety, and welfare, the conditions may include, but not be limited to, restrictions necessary to:

1. Ensure that public services and facilities affected by the proposed land use or activity be capable of accommodating increased service loads caused by the land use or activity;

2. Protect the natural environment and conserve natural resources and energy;

3. Ensure compatibility with adjacent uses of land including the business district of the City;

4. Protect the social and economic well-being of those who will use the land and residents and owners of adjacent property;

5. Promote the use of land in a socially and economically desirable manner; and

6. Be related to the valid exercise of the police power and purposes which are affected by the proposed activity.

e. Control of plan, modifications, continued compliance.

1. It is the intent that the development plan, approved in accordance with the foregoing procedures and standards, shall be the controlling requirement for development in this district. Upon approval, the development plan shall be deemed valid in perpetuity, as it may subsequently be amended as provided below, and all development shall substantially comply with the approved development plan.

2. While this approval is intended to assure that conceptual representations made at the time of development plan approval are adhered to in actual development, it is not intended to be so rigid as to prohibit adjustments that do not affect the basic concept of the plan.

(i) Minor modifications to the development plan, consistent with the Master Plan, may be allowed upon approval of the City Council or their designated representative without further Planning Commission review. Any such approved changes to the development plan shall be filed with the Department of Community Services and Development for distribution to those offices received the initial distribution of the plan.

(ii) Major modifications to the development plan would include one or more of the following:

[A] An increase in number of dwelling units or square footage of commercial space to a maximum of 15% above the original approved total;

[B] The construction of public or private buildings within areas designated as public park;

[C] Substantial realignment of existing roadways or development of new roadways; and

[D] The increase or reduction of public parking by 15% or greater.

3. For purposes of this subsection, a building shall be defined as any permanent structure occupied or intended or supporting or sheltering any occupancy.

4. Major modifications pursuant to Subsection (c)(3)e2(ii)[A], [C] and [D] above, where consistent with the Master Plan, may be allowed upon approval of the Planning Commission following the review requirements as provided elsewhere in this section. Major modifications pursuant to Subsection (c)(3)e2(ii)[B] above, consisting of constructing buildings within areas designated as public park, where consistent with the Master Plan, may be allowed upon approval of at least 3/4 of the membership of the entire Commission. Such construction shall also be reviewed and approved by at least seven members of City Council.

5. The approved development plan may identify future improvements, in which case subsequent plan approval is unnecessary except where such future improvements vary from that which is shown on the approved development plan.

f. Approval of land division. In the event the development plan requires the division of land, the Planning Commission shall review and approve the proposed land divisions. This review shall occur concurrently with the review of the development plan, with land divisions in a manner compatible with the Master Plan and in compliance with the applicable City site condominium requirements (Section 39-27) or Subdivision Ordinance (Chapter 33). Where inconsistencies exist between the approved Master Plan and the provisions of Chapter 32 (Streets and Sidewalks), Chapter 33 (Subdivisions), or the City's requirements for site condominiums referencing standards and provisions of Chapters 32 and 33, the requirements of the Master Plan shall prevail.

Sec. 39-133. Uses and dimensional requirements. [Ord. No. 1213, 6-3-1998; Ord. No. 1482, 10-3-2007]

(a) Permitted uses. Commercial uses shall be permitted in accordance with Section 39-127. In addition, uses which are consistent with the Master Plan shall be permitted and include, but are not limited to: residential, institutional, educational, bed-and-breakfast, light manufacturing, recreational, service, and tourism uses. City Council or their designee shall be responsible for assuring that proposed uses are consistent with the Master Plan.

(b) Dimensional requirements. There are no specific minimum or maximum dimensional requirements in this zone district. Lot areas, lot dimensions, setbacks, building heights, and other similar typical dimensional requirements shall be established consistent with the Master Plan and generally approved through the review of preliminary design guidelines of the development plan. City Council or its designee shall be responsible for assuring that proposed sizes and locations of all buildings and lots are consistent with those approved preliminary design guidelines of the development plan.

Sec. 39-134. District requirements and development standards. [Ord. No. 1213, 6-3-1998]

All development within this district shall adhere to the specific requirements and preliminary design guidelines as provided for in the development plan, consistent with the Master Plan. City Council or its designee shall be responsible for assuring that proposed buildings, streets and parking, sidewalks, landscaping, and other public and private site improvements are consistent with the development plan.

DIVISION 7
C-4 Regional Shopping Center District

Sec. 39-135. Compliance required. [Ord. No. 578; Ord. No. 1188, 2-19-1997; Ord. No. 1461, 9-6-2006]

Any development in the C-4 Regional Shopping Center District shall comply with the minimum requirements of Chapter 33 on subdivisions, as amended, and the Land Division Control Act, being Act No. 288 of the Public Acts of 1967, as amended, except insofar as any of such provisions, in the judgment of the Planning Commission, work a hardship, apply inequitably or by their terms apply primarily to residential subdivision development.

Sec. 39-136. Permitted uses. [Ord. No. 578; Ord. No. 1016, 2-20-1991; Ord. No. 1188, 2-19-1997; Ord. No. 1342, 8-7-2002; Ord. No. 1387, § 4, 6-2-2004; Ord. No. 1482, 10-3-2007; amended 5-14-2014 by Ord. No. 1628; 6-4-2014 by Ord. No. 1630]

The C-4 Regional Shopping Center District is to meet the retail shopping and merchandising needs of the entire community or general region. The following principal uses are permitted therein:

(1) Retail commercial sales and services, including, but not being limited to, the following types of uses:

(a) Retail stores.

(b) Personal service stores.

(c) Offices.

(d) Banks.

(e) Movie theaters.

(f) Restaurants.

(g) Motels.

(h) Gasoline sales.

(i) Automotive service businesses.

(j) Sexually oriented businesses.

(k) Sidewalk and outdoor cafes pursuant to Chapter 32.

(2) Municipal parks, municipal recreation areas, and municipal gardens.

(3) Indoor archery or firearm range but only if permitted as a special land use pursuant to Sections 39-17.1 and 39-17.2.

(4) Light assembly uses but only if permitted as a special land use pursuant to Sections 39-17.1 and 39-17.3.

(5) Accessory uses that are necessary but incidental to any principal uses such as incidental fabrication, servicing, processing or enclosed storage of goods are hereby permitted, subject to the following conditions:

(a) All products fabricated, serviced, processed or stored on the premises shall be held for sale on such premises.

(b) Automotive service businesses shall be limited to gasoline and oil sales, car washes, tune-ups, and replacement of minor parts such as plugs, shock absorbers, mufflers, tail pipes, tires, batteries, brakes and similar items subject to frequent replacement. Motor vehicles to be serviced shall be parked within a completely enclosed structure overnight. Discarded parts and salvage items shall be stored within a completely enclosed structure. Placement of outdoor displays of merchandise shall be limited to the pump island, and all signs shall comply with the sign ordinance provisions of this chapter.

Sec. 39-137. Prohibited uses. [Ord. No. 578; Ord. No. 601; Ord. No. 1016, 2-20-1991; Ord. No. 1188, 2-19-1997]

Within a C-4 District the following uses are prohibited:

(a) The killing of animals or fowl.

(b) Manufacturing, fabricating, processing, wholesaling, warehousing, industrial storage or other industrial uses, except when conducted accessory to principal retail uses as permitted by Section 39-136.

(c) Mobile home parks and residential use.

(d) Automotive sales whether new or used and automotive servicing, except as provided in Section 39-136.

(e) Tents, temporary structures and outdoor promotional activities such as fairs, carnivals or similar outdoor amusements.

(f) Overnight parking of trucks of more than 1 1/2 ton capacity, except in designated loading spaces.

(g) Any principal or accessory use which constitutes, creates or increases a nuisance in fact so as to adversely affect a legally conforming use of adjoining or nearby premises.

Sec. 39-138. Required conditions. [Ord. No. 578; Ord. No. 604; Ord. No. 689; Ord. No. 822; Ord. No. 979, 6-21-1989; Ord. No. 1016, 2-20-1991; Ord. No. 1188, 2-19-1997; Ord. No. 1340, 7-17-2002; Ord. No. 1384, 5-12-2004; Ord. No. 1401, 12-15-2004]

The following conditions are required in the C-4 Regional Shopping Center Zone District:

(a) New uses and expansion of existing uses shall be subject to site plan review procedures and criteria set forth in Section 39-20 of this chapter.

(b) Within a C-4 District, the landscape plan required for site plan approval shall be prepared by a landscape architect, and shall show all landscape materials or features to be retained as well as provided within the development. Such landscape plan shall further conform to all other landscape or screening requirements set forth in this chapter, except that a maintained landscaped area, consisting of a mixture of trees, shrubs and perennials separating a parking lot and or building from a major arterial right-of-way in a C-4 District shall be not less than 25 feet in width. With respect to the existing C-4 District, this standard is intended to apply to 16th Street and Waverly Road, or to similar major arterial streets in any subsequent C-4 District which might be established.

(c) Off-street parking shall be provided as required in Section 39-45, and loading space as required in Section 39-55.

(d) All businesses, servicing or processing shall be conducted within completely enclosed structures, except for the following:

(1) Off-street loading operations;

(2) Automotive service station operations;

(3) Storage and display of merchandise within a fully enclosed fenced area. Said fencing shall be opaque, shall have a minimum height of six feet, and shall adequately screen the merchandise within the fenced area. Alternatively, the Planning Commission may approve as a component of a site plan review or as a singular issue, alternative fencing and landscape screening that is sufficiently comparable to opaque fencing.

(4) The display of seasonal merchandise such as garden, lawn and recreational supplies shall comply with the following requirements:

a. A sketch plan that indicates the proposed display area shall be submitted to the Zoning Administrator and Community and Neighborhood Services for review and approval. This administrative review is meant to insure compliance with this section and to insure safe traffic and pedestrian circulation around and through the display area.

b. The display area shall be no greater than 10% of the total gross floor area of the main principal building.

c. The display area shall be entirely located within 300 feet of the main principal building.

d. The display area shall not encroach into any required yard area.

e. The use of the display area is allowed from March 15 to September 1 of each year.

(e) Buildings and structures within a C-4 District, whether principal or accessory, shall be architecturally integrated and compatible with one another.

Sec. 39-139. Height and area regulations. [Ord. No. 578; Ord. No. 689; Ord. No. 778; Ord. No. 1016, 2-20-1991; Ord. No. 1188, 2-19-1997]

The following height and area regulations shall apply within the C-4 Regional Shopping Center Zone District:

(a) Height. No building shall exceed a maximum height of 60 feet.

(b) Setbacks. Building setbacks from major arterial streets shall be no less than 100 feet. With respect to the existing C-4 District, this requirement is intended to apply to 16th Street and Waverly Road, or to similar major arterial streets in any subsequent C-4 District which may be established. In the case of nonarterial streets within or adjacent to a C-4 District, building setbacks shall be no less than 50 feet. In all other instances, rear and side yard setbacks shall be established by the Planning Commission, taking into consideration the character of the overall development site and plan, the types of streets and buildings, and the density and prospective market of the proposed development.

DIVISION 7.1
C-5 Professional Office Service District

Sec. 39-140. Intent. [Ord. No. 1271, § 1, 2-2-2000]

The C-5 Professional Office Service District is intended to allow for the development of a variety of office uses of a business, professional, and institutional nature, as well as to allow for the development of residential and institutional uses. It is also the intent of this district to locate office uses in proximity to highways and major arterial streets, and to encourage office uses as a transitional use and character between adjacent commercial and residential land uses. The regulations contained in this division are designed to insure a harmonious relationship between the uses allowed in this district and abutting land uses.

Sec. 39-141. Permitted uses by right. [Ord. No. 1271, § 1, 2-2-2000; amended Ord. No. 1732]

The following uses are allowed by right in the C-5 District:

(a) Corporate, executive, and administrative offices.

(b) Medical and dental clinics for the treatment of humans, professional office of doctor, dentist, lawyer, accountant, realtor, architect, engineer, business or financial consultant, cosmetologist, or other similar professional person.

(c) Churches and other places of religious assembly; public park; public and private educational uses such as a university, college campus, or business school; and governmental office buildings.

(d) Banks, credit unions, and other financial institutions, including drive-through and outdoor automatic teller facilities.

(e) Residential uses that conform to the use, height, and area requirements of the nearest residential district located on the same side of the street. When two or more residential districts are of equal distance, then the least restrictive district shall apply. Residential dwelling units on the second floor level or higher of a multifloor mixed-use commercial building are not required to provide residential yard spaces per the requirements of said residential district.

(f) Short-term rentals as allowed in Chapter 14 with a certificate of compliance.

(g) Accessory structures and uses customarily incidental to the permitted principal uses described above.

Sec. 39-142. Prohibited uses. [Ord. No. 1271, § 1, 2-2-2000]

Within any C-5 District, no building, structure or premises shall be used and no building or structure shall be erected or altered which is intended or designed to be used in whole or in part for any of the following prohibited uses:

(a) Every use, which constitutes, creates or increases a nuisance in fact, so as to adversely affect a legally conforming use of adjoining or nearby premises.

(b) Any use not permitted by Section 39-141, Permitted uses by right.

Sec. 39-143. Required conditions. [Ord. No. 1271, § 1, 2-2-2000; Ord. No. 1371, § 6, 10-15-2003]

(a) All drive through and outdoor ATM facilities associated with a financial institution shall abide by the building setback requirements, and shall be screened from any adjacent residentially used or zoned property with a minimum seven feet of dense and continuous evergreen landscaping at least six feet high, and/or a solid six-foot high fence backed up with landscaping. Any outdoor speakers and/or lighting associated with such facilities shall be directed away from and of an intensity low enough so as to

not create a nuisance to nearby residential properties. All such drive through and ATM facilities shall also provide adequate on-site areas for vehicle stacking.

(b) All business, service, or processing shall be conducted wholly within a completely enclosed building. If specifically approved by the Planning Commission, businesses may be permitted the accessory outside storage of vehicles and equipment without enclosure when completely screened or fenced from the view of any adjacent property or street.

(c) For every parking lot used as a principal or accessory use in a C-5 District, the following shall apply:

(1) There shall be provided on lands contiguous to such parking lot an area or areas of open space, planted and landscaped with natural vegetation, at a ratio of not less than one square foot of landscape area for each 10 square feet of parking area.

(2) Where any parking lot exceeds 140 feet in any dimension, it shall further be required that at least 50% of the required landscaped open space be provided within the parking lot as opposed to the perimeter of the lot, so as to mitigate the adverse aesthetic impact of large masses of uninterrupted blacktop or concrete. The Planning Commission may approve a transfer of all or part of the required interior landscaping to other areas of the site.

(3) No parking lot shall be closer than 10 feet to any street right-of-way or any common line with a residential or residentially zoned use or property. This 10 feet shall be planted and landscaped with natural vegetation.

(4) Parking lots shall be located in the side and rear yard areas of properties, unless the Planning Commission determines that based on health, safety, and welfare concerns the parking lot should be located in a front yard location. For purposes of this subsection, any frontage of a property on a street shall be deemed a front yard area.

(5) Such parking areas shall be used solely for the parking of passenger vehicles, and no commercial repair work, sales or service of any kind shall be conducted on such parking lot.

(d) Buildings and structures within the C-5 District, whether principal or accessory, shall be architecturally integrated and compatible with one another, and if located in a residential or mixed-use neighborhood context shall have a residential scale and character. The Planning Commission may use the standards of Section 39-198, Residential infill regulations, to interpret and evaluate the architectural compatibility of the proposed commercial or residential structure within the urban design and architectural context of the site.

Sec. 39-144. Height and area regulations. [Ord. No. 1271, § 1, 2-2-2000; Ord. No. 1360, § 1, 3-19-2003]

(a) Height. No building shall exceed a maximum height of 35 feet.

(b) Front yard.

(1) There shall be a front yard extending the entire width of the building of not less than 10 feet from the street right-of-way line, provided, that where an existing setback line has been established by existing commercial buildings occupying 25% or more of the commercial zoned frontage within two consecutive blocks, such lessor established setback shall apply. In no case shall a front yard be greater than 25 feet from the street right-of-way line.

(2) Yard requirements for specific streets. The minimum and maximum yard requirements for properties with frontage on certain streets are as follows:

a. 16th Street from the center line of Waverly Road to the center line of Quarterline Road. There shall be a front yard of not less than 25 feet and not greater than 100 feet from the street right-of-way line.

b. 24th Street from the center line of Waverly Road to the center line of Country Club Road. There shall be a front yard of not less then 25 feet and not greater than 100 feet from the street right-of-way line.

(c) Side yard.

(1) No side yard is required, except that where a side yard adjoins an R Residential District, a residential use, or a side street, a seven-foot yard is required. Side yards on a side street shall not be greater than 25 feet.

(2) Yard requirements for specific streets. The side yard requirement for properties with frontage on certain streets are as follows:

a. 16th Street from the center line of Waverly Road to the center line of Quarterline Road. The minimum side yard is 15 feet.

b. 24th Street from the center line of Waverly Road to the center line of Country Club Road. The minimum side yard is 15 feet.

(d) Rear yard. There shall be a minimum rear yard of 25 feet where property abuts any R Residential District, or a residential use. A five-foot rear yard is required where property abuts a C Commercial District or I Industrial District.

(e) Accessory buildings. Accessory buildings shall not be located in any required yard, and maximum yard restrictions shall not apply.

(f) Additions to existing structures. Additions or alterations to existing buildings, conforming in use, that reduce nonconforming front yards or side yards on a side street shall be permitted without regard to the maximum yard requirements of this section.

Sec. 39-145. through Sec. 39-149. (Reserved)

DIVISION 8

Sexually Oriented Businesses

Sec. 39-150. Definitions. [Ord. No. 1342, 8-7-2002[10]; amended 3-7-2018 by Ord. No. 1727]

For the purpose of this division, the following words and phrases shall have the meanings respectively ascribed to them by this section:

ADULT ARCADE — An adult arcade means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are predominantly distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified anatomical areas" or "specified sexual activities".

ADULT BOOKSTORE OR ADULT VIDEO STORE — An adult bookstore or adult video store means a commercial establishment which has a substantial portion of its stock-in-trade for sale or rent, for any form of consideration, any one or more of the following items:

(1) Books, magazines, periodicals or other printed matter, or photographs, pictures, films, motion pictures, video cassettes, video tapes, any material in digital format [including, but not limited to compact discs (CDs) or digital video discs (DVDs)], greeting cards, or video reproductions, slides, or other visual representations or electronic media or other merchandise which is predominantly distinguished or characterized by an emphasis on the depiction or description of "specified anatomical areas" or "specified sexual activities"; or

(2) Instruments, devices, or paraphernalia that are designed for use in connection with "specified sexual activities".

A commercial establishment may have other stock-in-trade which does not involve the offering for sale or rental of merchandise depicting or describing "specified anatomical areas" or "specified sexual activities" and still be categorized as an adult bookstore or adult video store. Such other stock-in-trade will not serve to exempt such a commercial establishment from being characterized as an adult bookstore or adult video store so long as a substantial portion of the commercial establishment's stock-in-trade is the offering for sale or rental for consideration the specified merchandise which is predominantly distinguished or characterized by an emphasis on the depiction or description of "specified anatomical areas" or "specified sexual activities".

The phrase "substantial portion of its stock-in-trade" shall be construed with reference to all relevant factors, including, but not limited to one or more of the following:

10. Editor's Note: This ordinance amended Division 8, adopted by Ord. No. 850, as amended 2-19-1997 by Ord. No. 1188 and 2-3-1999 by Ord. No. 1236, in its entirety.

(1) Twenty-five percent or more of the commercial establishment's gross sales area is used for the sale of merchandise which is predominantly distinguished or characterized by an emphasis on the depiction or description of "specified anatomical areas" or "specified sexual activities". For purposes of this division, gross sales area is defined as the floor area within the inside perimeter of the exterior walls of the commercial establishment, exclusive of vent shafts and courts, storage, stock, office, and shipping areas, without deduction for corridors, display fixtures, stairways, public rest rooms, closets, the thickness of interior walls, columns or other features.

(2) Twenty-five percent or more of the commercial establishment's stock-in-trade (inventory) is comprised of merchandise which is predominantly distinguished or characterized by an emphasis on the depiction or description of "specified anatomical areas" or "specified sexual activities".

(3) Twenty-five percent or more of the commercial establishment's gross revenues are generated by the sale or rental of merchandise which is predominantly distinguished or characterized by an emphasis on the depiction or description of "specified anatomical areas" or "specified sexual activities".

There is a rebuttable presumption that a commercial establishment constitutes an adult bookstore or adult video store if the commercial establishment (1) offers or advertises merchandise that is predominantly distinguished or characterized by an emphasis on the depiction or description of "specified anatomical areas" or "specified sexual activities" and (2) fails to make revenue and stock-in-trade (inventory) or related business records available to the City upon reasonable advance notice.

ADULT CABARET — An adult cabaret means a nightclub, restaurant, or other similar commercial establishment which regularly features or displays:

(1) Persons who appear in a state of nudity; or

(2) Live performances predominantly distinguished or characterized by an emphasis on the exposure of any "specified anatomical areas" or by any "specified sexual activities"; or

(3) Films, motion pictures, video cassettes, videotapes, any material in digital format [including, but not limited to compact discs (CDs) or digital video discs (DVDs)], slides, other photographic reproductions or visual media which are predominantly distinguished or characterized by an emphasis on the depiction or description of any "specified anatomical areas" or any "specified sexual activities".

ADULT MOTEL — An adult motel means a hotel, motel or similar commercial establishment that:

(1) Offers accommodations to the public for any form of consideration and provides patrons with closed-circuit television (as distinguished from commercial cable services) transmissions, films, motion pictures, video cassettes, videotapes, any material in digital format [including, but not limited to compact discs (CDs) or digital video discs (DVDs)], slides, other photographic reproductions or visual media that are predominantly distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified anatomical areas" or any "specified sexual activities"; and

(2) Offers a sleeping room for rent, or allows a tenant or occupant of a sleeping room to subrent the room, for a period of time that is less than 10 hours.

ADULT MOTION PICTURE THEATER — An adult motion-picture theater means a commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, videotapes, any material in digital format [including, but not limited to compact discs (CDs) or digital video discs (DVDs)], slides, or similar photographic reproductions or visual media are regularly featured which are predominantly distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified anatomical activities" or "specified sexual activities". This definition includes, but is not limited to, commercial establishments that offer individual viewing booths.

ADULT THEATER — An adult theater is a theater, concert hall, auditorium or similar commercial establishment that regularly features a person or persons who appear in a state of nudity and/or regularly features a person or persons in live performances that are predominantly distinguished or characterized by an emphasis on the exposure of "specified anatomical areas" or "specified sexual activities".

ESCORT — An escort means a person who, for a fee, tip or any other form of consideration and regardless of who pays that consideration, agrees to act or offers to act as a companion or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

ESCORT AGENCY — An escort agency means a person or business association that furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip or other consideration. An escort agency is deemed to be operated in the location where (1) a request for an escort is received, or (2) the escort and the person requesting the escort are together.

MASSAGE — Massage means any method of applying pressure on, friction against, stroking, kneading, rubbing, tapping, pounding, vibrating or stimulating the external parts of the body, for remedial or hygienic or other purposes, with the hands, with or without the aid of any mechanical, magnetic or electrical apparatus or appliances, with or without supplementary aids such as rubbing alcohol, liniments, antiseptics, oils, powders, creams, lotions, ointments or other similar preparations.

MASSAGE ESTABLISHMENT — Massage establishment means any building, room, place or establishment where body massage is regularly practiced on the human body, to club members or to the general public, for a charge. The term "massage establishment" includes, but is not limited to massage parlors, health clubs, sauna baths and steam baths if massages are performed at those locations. The term "massage establishment" shall not include:

(1) Hospitals, nursing homes, medical clinics;

(2) The office of a state-licensed physician, surgeon, physical therapist, osteopath or chiropractor;

(3) The establishment of a barber, manicurist, beautician or cosmetologist who is duly licensed under the laws of this state, or another state within the United States, or the federal government, and who practices within the established limits of his or her license, and who administers a massage in the normal course of his or her duties in which massages are administered only to the scalp, face, neck, hands, feet or shoulder;

(4) The establishment of a myomassaologist who is a current member of the American Massage Therapy Association or other national massage therapy organization with comparable prerequisites for certification; or

(5) A nonprofit organization operating a community center, swimming pool, tennis court or other educational, cultural, recreational or athletic facility for the welfare of the residents of the area.

MATERIAL — Material means anything tangible, whether through the medium of reading, observation, sound, or in any other manner, including, but not limited to, anything printed or written, any book, magazine, newspaper, pamphlet, picture, drawing, pictorial representation, motion picture, photograph, video tape, video disk, film, transparency, slide, audiotape, audiodisk, computer tape, holographic images, or any other medium used to electronically produce or reproduce images on a screen, or any mechanical, chemical, or electronic reproduction. Material includes undeveloped photographs, molds, printing plates, and other latent representational objects whether or not processing or other acts are required to make the content of the material apparent. This definition is intended to include material which is the product of any technology, whether that technology is available on the effective date of this Ordinance or becomes available after that date.

MERCHANDISE — Merchandise means material and novelties.

NOVELTY — Novelty means any instrument, device, or paraphernalia which depicts or describes any "specific anatomical areas" or any "specific sexual activities," or which is designed for use, or commonly used, in connection with "specific sexual activities," excluding condoms and other birth control and disease prevention products.

NUDE MODEL STUDIO — Nude model studio means any place where a person who displays "specified anatomical areas" is regularly provided to be observed, sketched, drawn, painted, sculptured, photographed or similarly depicted by other persons who pay money or any form of consideration. Nude Model Studio does not include either of the following:

(1) An educational institution funded, chartered or recognized by the State of Michigan; or

(2) Any modeling session for a local, nonprofit organization, that is not open to the public or to any persons other than members of the organization, that is for the purpose of instruction in the artistic depiction in two-dimensional or three-dimensional media of the human form, during which no "specified sexual activities" occur and during which the model remains in a fixed pose.

PREDOMINANTLY DISTINGUISHED OR CHARACTERIZED BY AN EMPHASIS ON — "Predominantly distinguished or characterized by an emphasis on" means the dominant or essential theme of the object described by such phrase.

PUBLIC NUDITY OR STATE OF NUDITY — Public nudity or state of nudity means knowingly or intentionally displaying in a public place, or in any other place for payment or promise of payment by any person, including, but not limited to payment or promise of payment of an admission fee, any individual's genitals, pubic area, vulva, anus or anal cleft with less than a fully opaque covering, a female individual's breast with less than a fully opaque covering of the nipple and areola, or the covered male genitals in a discernibly turgid state. Public nudity does not include any of the following:

(1) A woman's breast-feeding of an infant shall not under any circumstances constitute public nudity irrespective of whether the nipple is covered during or incidental to the feeding.

(2) Any display of any part of the anatomy occurring as part of the regular curriculum of an educational institution that is funded, chartered, or recognized by the State of Michigan.

SEXUAL ENCOUNTER CENTER — Sexual encounter center means a business or commercial establishment, except that which is part of the practice of and under the supervision and control of a physician, psychologist or psychiatrist licensed to practice in the State of Michigan, that, as one of its principal business purposes, offers for any form of consideration:

(1) Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or

(2) Activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or exposes or displays any "specified anatomical areas."

SEXUALLY ORIENTED BUSINESS — Sexually oriented business means a business or commercial establishment engaging in any of the following businesses: (a) adult arcade; (b) adult bookstore or adult video store; (c) adult cabaret; (d) adult motel; (e) adult motion-picture theater; (f) adult theater; (g) escort agency; (h) nude model studio; or (i) sexual encounter center. Each of these businesses shall constitute a separate sexually oriented business.

SPECIFIED ANATOMICAL AREAS — Specified anatomical areas means:

(1) Less than completely and opaquely covered human genitals, pubic region, buttocks, anus or a female breast below a point immediately above the top of the areola, but not including any portion of the cleavage of the female breast exhibited by a dress, blouse, shirt, leotard, bathing suit, or other wearing apparel, provided the areolae is not exposed; and

(2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES — Specified sexual activities means:

(1) The fondling or any other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts; or

(2) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, masturbation or sodomy; or

(3) Excretory functions as part of or in connection with any of the activities set forth in (1) or (2) above.

Sec. 39-151. Applicability of division. [Ord. No. 1342, 8-7-2002; amended 3-7-2018 by Ord. No. 1727]

Sexually oriented businesses, as defined in Section 39-150, shall be subject to the regulations of this division. A massage establishment, as defined in Section 39-150, is not subject to the regulations of this division.

Sec. 39-152. License and public hearing prerequisite. Amended 3-7-2018 by Ord. No. 1727]

A use specified in Section 39-151 shall not be conducted, nor shall a building permit or certificate of occupancy be issued by the Building/Zoning Administrator, until the applicant has obtained a license as required by Chapter 40 of this Code and a public hearing has been conducted in accordance with Section 39-409 of this chapter.

Sec. 39-153. Permitting as special exceptions—General restrictions. [Ord. No. 1342, 8-7-2002; amended 3-7-2018 by Ord. No. 1727]

A use specified in Section 39-151 shall be allowed as a special exception use, subject to the following restrictions:

(a) The nature of the use must be permitted in the zoned district where it is proposed to be located, either C-2 or C-4.

(b) Within 60 days of the filing of an application for a special exception to allow a use specified in Section 39-151, a public hearing shall be conducted in accordance with Section 39-409 of this chapter, and the decision of the Zoning Board shall be in accordance with the standards set forth pursuant to Section 39-82 of this chapter.

Sec. 39-154. Applicant to comply with certain standards. [Ord. No. 1342, 8-7-2002; amended 3-7-2018 by Ord. No. 1727]

The Zoning Board shall grant a special exception to allow a use specified in Section 39-151 of this chapter if the applicant complies with each of the following:

(a) The proposed use is not an accessory or incidental use in any zoned district, instead, the proposed use is a principal use to the extent permitted within a designated zoned district, subject to the regulations of this chapter or other statutes, codes or ordinances.

(b) The proposed use is not located or operated within 500 feet of a church, synagogue, mosque, temple or regular place of worship; public or private nursery school, preschool, kindergarten, elementary or secondary school; public park; licensed child-care center; entertainment business that is oriented primarily toward children or family entertainment; the boundary of any residential district; or any residential use not located within a residential district, and the proposed use is not located within 1,000 feet of another sexually oriented business.

(1) For purposes of this subsection, the separation distance between a sexually oriented business and a use listed in this subsection shall be measured from the sexually oriented business structure to the boundary line of the use or district in

which the other use is located and the separation distance between a sexually oriented business and another sexually oriented business shall be measured from one sexually oriented business' lot line to the other sexually oriented business' lot line.

(2) If any portion of the building or structure in which the sexually oriented business is located fails to meet the separation distance requirements of this subsection, then the entire building or structure shall be ineligible for a sexually oriented business use.

(3) The presence or existence of a City, county or other political subdivision boundary shall be irrelevant for purposes of calculating and applying the separation distance requirements of this subsection.

(4) A sexually oriented business lawfully operating is not rendered a nonconforming use by the location, subsequent to the location or grant or renewal of the sexually oriented business, of a church, synagogue, mosque, temple or regular place of worship, a public or private nursery school, preschool, kindergarten, elementary or secondary school, a public park, a licensed child-care center, an entertainment business that is oriented primarily toward children or family entertainment, or another sexually oriented business.

(c) The proposed use is not located or operated in the same building, structure or portion thereof of another sexually oriented business.

(d) Signs for a sexually oriented business comply with the requirements of Article IX of this chapter, and no sign shall contain any words, lettering, photographs, silhouettes, drawings or pictorial representations of a sexually explicit manner, or of "specified anatomical areas" or "specified sexual activities."

(e) The activities to be conducted or the materials to be distributed shall not be in violation of any applicable statute, code or ordinance.

Sec. 39-155. Referral of application for administrative review. [Ord. No. 1342, 8-7-2002; amended 3-7-2018 by Ord. No. 1727]

Prior to the granting of a special exception, the Zoning Board shall refer copies of the application to the Planning Commission, office of the City Engineer, City Manager, Community and Neighborhood Services, City Assessor, Police Department, Fire Department and Board of Public Works for review and recommendation.

Sec. 39-156. Conditions or limitations imposed by Zoning Board. [Ord. No. 1342, 8-7-2002; amended 3-7-2018 by Ord. No. 1727]

The Zoning Board may impose such conditions or limitation upon the establishment, location, construction, maintenance or operation of the uses permitted pursuant to Section 39-154 as shall be necessary for the protection of the public health, safety and welfare of the City or adjacent and adjoining properties.

Sec. 39-157. Severability. [Ord. No. 1342, 8-7-2002; 3-7-2018 by Ord. No. 1727]

The various parts, sections and clauses of this ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby.

Sec. 39-158. through Sec. 39-164. (Reserved)

DIVISION 9
PUD Planned Unit Development District

Sec. 39-165. Findings and intent. [Ord. No. 1585, 5-16-2012[11]]

There exist in the City properties which are not ideal for traditional residential, commercial or industrial development. This may be due to land conditions, topography or as a response to the economic environment of the City of Holland. It is the purpose and intent of this division to provide a degree of flexibility for development not attainable in the other zoning divisions. Promotion of this division will ensure architecturally complementary design, significant areas of green space with maintained landscaping, compatible uses within the development and amenities provided for employers, employees, residents of the area and users of the facilities provided to the public.

The parcel shall be under the control of one owner or group of owners and shall be capable of being planned and developed as one integral unit. Application for a PUD District must be made with the written authorization of all owners of the site or may be initiated by the City. The designation of a PUD District requires adherence with the zoning ordinance as well as the provisions stated herewith including a public hearing for rezoning and development plan review.

Sec. 39-166. Specifically permitted uses. [Ord. No. 1585, 5-16-2012; amended 11-28-2012 by Ord. No. 1598; 3-7-2018 by Ord. No. 1727; Ord. No. 1732]

The following uses, either separately or in conjunction with the delineated uses, are permitted in a PUD District:

(a) Cooperative, condominium or apartment residences.

(b) Single-family, duplexes, cluster housing, zero-lot-line housing.

(c) Nursing homes, retirement homes, licensed day-care facilities.

(d) All uses permitted by Section 39-210 with required setbacks to be determined by the Planning Commission.

(e) Executive, professional or administrative offices.

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11. Editor's Note: This ordinance also repealed former Division 9, adopted 4-6-1988 by Ord. No. 941, as amended 9-21-1994 by Ord. No. 1120; 2-19-1997 by Ord. No. 1188; 11-19-1997 by Ord. No. 1202; 2-17-1999 by Ord. No. 1238; 5-23-2001 by Ord. Nos. 1298 and 1303;9-18-2002 by Ord. No. 1348, 11-20-2002 by Ord. No. 1354; 6-2-2004 by Ord. No. 1387; and 5-2-2007 by Ord. No. 1475.

(f) Medical or dental clinics, dispensaries, therapy or treatment centers or hospitals and those uses typically associated with a hospital.

(g) Radio and television broadcasting stations, excluding towers.

(h) Financial institutions.

(i) Retail sales and services.

(j) Hotels or motels; accredited overnight sleeping establishments.

(k) Restaurants.

(l) Athletic and fitness clubs.

(m) Accessory uses that are customarily incidental to any principal use permitted in Subsections (a) through (l) of this section, provided that such uses are in conjunction with an existing permitted use on the premises, and provided further that such accessory uses shall not constitute, create or increase a nuisance in fact which adversely affects a legal use of adjoining or nearby premises.

(n) All processing or storage of merchandise and materials shall be conducted wholly within a completely enclosed building. Businesses and service uses may be permitted without enclosure upon approval by the Planning Commission where appropriate.

(o) Mini-warehouses.

(1) Mini-warehouses only on those portions of the property lying within 300 feet of the right-of-way of US 31. For purposes of this section and Section 39-25, "mini-warehouse" is defined as a building or group of buildings in a controlled-access, fenced and screened compound that contains relatively small storage spaces of varying sizes and/or spaces having individual, compartmentalized and controlled access for the dead storage of excess personal property of an individual or family generally stored in residential structures, when such building or group of buildings are not located on the lot of the residence. This may include the indoor and/or outdoor storage of personally owned recreational vehicles, boats, and trailers. Said outdoor storage areas shall be covered with a durable hard surface and shall comprise no more than 15% of the total property area.

(2) The facilities may also be utilized for storage of goods and materials of a commercial business, provided that access to such facilities is necessary only on an occasional basis. The facility is for storage only, and in no event may the buildings or property be utilized for repairs, assembly, fabrication, processing activities, or wholesale sales. No retail sales may be conducted on-site without prior Planning Commission review and approval of any such change of use for compliance with PUD and site plan requirements.

(p) Wholesale and warehousing businesses with total gross floor areas of 25,000 square feet and less, only on those portions of the property lying within 300 feet of the right-of-way of US 31.

(q) Parking facilities; outdoor, open-air and/or enclosed or partially enclosed markets; community festival places; and special event venues.

(r) Sidewalk and outdoor cafes pursuant to Chapter 32, and pursuant to the enclosure requirements of Section 39-25.

(s) Short-term rentals as allowed in Chapter 14 with a certificate of compliance if this use has been approved by the Planning Commission as part of the site plan.

Sec. 39-167. Conditionally approved permitted uses. [Ord. No. 1585, 5-16-2012; amended 11-28-2012 by Ord. No. 1598]

(a) Background for industrial uses. The land described in Subsection (b)(1) is uniquely located between land otherwise zoned for industrial uses and is suited for those industrial uses described in Subsection (c) of this section if regulated as a planned unit development so as to avoid negative impact on public infrastructure and those commercial uses in the area.

(b) Conditions for industrial use. The uses described in Subsection (c) are permitted uses in a PUD District if the Planning Commission determines that the following conditions are present:

(1) The subject property has frontage on Waverly Road and is located south of 48th Street and north of I-196;

(2) The minimum size of the property is one acre;

(3) All uses will conform to the environmental guidelines of Section 39-86.

(4) All processing or storage of materials will be conducted wholly within a completely enclosed building. Exterior refuse and recycling areas are permitted when dumpsters and containers are fully screened with an opaque fence.

(c) Permitted industrial uses. The uses permitted under this section include:

(1) Manufacturing, development, fabrication, compounding, processing, assembly or treatment of materials, substances or objects.

(2) Offices, research, testing or development facilities.

(3) Wholesale, storage or warehousing businesses.

(4) Processing, packaging, distribution or servicing of industrial equipment, supplies, materials or products.

(5) Accessory uses that are customarily incidental to any principal use permitted in this section, provided that such uses are in conjunction with an existing permitted use on the premises, and provided further that such accessory uses shall not constitute, create or increase a nuisance in fact which adversely affects a legal use of adjoining or nearby premises.

(d) Background for automotive/vehicular and machinery sales and service uses. The land described in Subsection (e)(1) is uniquely located along a gateway corridor entering the City in the vicinity of land used for the conditionally permitted use described herein but also immediately adjoining land planned and zoned for future residential and neighborhood center development and therefore conditionally appropriate for those uses

described in Subsection (f) of this section if regulated as a planned unit development so as to avoid negative impact on public infrastructure and those neighborhood commercial and residential uses planned in the area.

(e) Conditions for automotive/vehicular and machinery sales and service use. The uses described in Subsection (c) are permitted uses in a PUD District if the Planning Commission determines that the following conditions are present:

(1) The subject property is south of I-196 and east of and within 400 feet of M-40.

(2) Buildings containing such uses shall not be limited in size except as restrained by setback requirements.

(3) Such uses displayed, sold or serviced outside [subject to Section 39-26(f)] shall:

a. Only be allowed within the site area beginning at forty-foot setback from the street right-of-way and extending back to the four-hundred-foot setback line;

b. Occupy not more than 50% of the lot width frontage in the area defined between the forty-foot setback and eighty-foot setback;

c. Be screened, landscaped and bermed in accordance with the overlay requirements (already in the ordinance in separate Section 39-341) and portions of the site between 40 feet and 80 feet in setback between the street, and such uses shall be further landscaped and screened as determined during site plan review;

d. Shall be screened continuously with fencing and landscaping along portions of property abutting residentially zoned or used property; and

e. Be located on a paved and durable surface.

f. The driveway and paved area within 40 feet of the right-of-way shall be no wider than the width of the curb cut as approved by MDOT.

(f) Permitted automotive/vehicular and machinery sales and service uses. The uses permitted under this section include:

(1) Automobile, truck, recreational vehicles, bus, or other on-road or off-road vehicles.

(2) Boats or other similar vehicles.

(3) Trailers or other accessory conveyances typically pulled by such vehicles noted in Subsection (f)(1) and (2) above.

(4) Machinery sales and services.

Sec. 39-168. Specifically prohibited uses. [Ord. No. 1585, 5-16-2012; amended 11-18-2012 by Ord. No. 1598]

(a) Mobile home parks.

(b) Automotive and machinery sales and service, except for automotive and machinery sales and services located south of I-196 and east of and within 400 feet of the M-40 right-of-way.

(c) Facilities that produce hazards to the public in the form of noxious odors, excessive radiation, dirt, heat, noise or vibrations which are perceptible without instrument at the building exterior; or other potential hazards or nuisances. In applying this criteria, environmental guidelines of Section 39-74 shall be applicable.

Sec. 39-169. Establishment. [Ord. No. 1585, 5-16-2012]

PUD Districts may be established by initiative of the Planning Commission and the City Council or may be established by application and approval, in accordance with procedures of this Code. In either case, the use of any lands within a PUD District shall be contingent upon the submission and approval of a development plan and the faithful adherence to that plan. The development plan approval of a PUD shall supersede and be in lieu of any other plan review process of this chapter. In the case of an application for rezoning to a PUD District, the approval of a zone change and the approval of a development plan shall proceed concurrently. In cases where a PUD District is existing, a development plan shall be approved by the Planning Commission prior to issuance of a building permit. Where the scope of a PUD District indicates development may incorporate several distinct types of land use, or may span several years, a project plan for the site shall be presented in its entirety and development plans may be approved in phases. In the event of a proposed subdivision within a PUD District, the preliminary plat submitted and approved shall be deemed the subdivision plan and subsequent development plan review in accordance of this chapter shall proceed. Except for lot size and area requirements, all applicable provisions of Chapter 33 shall apply to a subdivision within a PUD District. In considering approval or disapproval of a plan, the standards set forth in Section 39-24 shall be applied.

Sec. 39-170. Development plan review. [Ord. No. 1585, 5-16-2012]

All developments in a PUD zone district shall be reviewed in accordance with Sections 39-20 through 39-27 of this chapter.

Sec. 39-171. Compliance with overlay district requirements. [Ord. No. 1585, 5-16-2012]

The portions of a property that fall within the boundaries of an overlay district per Article VIII, Division 5 of this chapter shall comply with the requirements of the applicable overlay district.

Sec. 39-172. Minimum residential densities. [Ord. No. 1585, 5-16-2012]

Where the lot is served by, or is otherwise available to, a public sewer system, and when a planned unit development exclusively consists of residential land uses, there shall be a minimum allowable residential density of greater than three dwelling units per acre. Where the lot is not served by, or is not otherwise available to, a public sewer system, and when a planned unit development exclusively consists of residential land uses, there shall be a minimum allowable density of greater than two dwelling units per acre.

Sec. 39-173. through Sec. 39-184. (Reserved)

ARTICLE VII
Residential District Regulations

DIVISION 1
General Provisions Applicable to Residential Districts

Sec. 39-185. Height and area regulations and exceptions. [Ord. No. 464, § 9-1.12; Ord. No. 975, 3-1-1989; Ord. No. 1188, 2-19-1997; Ord. No. 1231, 12-16-1998; Ord. No. 1268, 1-19-2000; Ord. No. 1383, 5-12-2004; Ord. No. 1558, 2-2-2011; amended 6-5-2013 by Ord. No. 1606; 6-3-2015 by Ord. No. 1650; 10-7-2015 by Ord. No. 1656; 6-1-2016 by Ord. No. 1669; Ord. No. 1698; 4-18-2018 by Ord. No. 1731; 8-1-2018 by Ord. No. 1741]

Height and area regulations shall be specified for each residential district; provided, however, that the following general exceptions are made:

(a) If 40% or more of all the frontage on one side of a street, between two intersecting streets, is developed with one- and two-family residences, the lesser front yard setback so established shall prevail, but nothing in this division shall be construed to permit any new house closer than five feet to the front street line. Except where compliance with infill residential standards of Section 39-198 requires a greater setback, this section shall not require a front yard greater than that required for the zone district.

(b) Accessory buildings, except in the PRD Planned Residential Development District.

(1) No accessory building shall be erected in any required front yard.

(2) Accessory buildings shall be located at least three feet from any dwelling and at least three feet from any other accessory building on the lot.

(3) A maximum of two accessory buildings per residential lot less than two acres in size and a maximum of four accessory buildings per lots two acres in size or greater shall be permitted.

(4) Accessory buildings shall not exceed 17 feet in average roof height unless the property is located within an historic district and may be eligible for additional average roof height per compliance with Section 39-185(g).

Average Roof Height Measurement

(5) The minimum roof pitch of an accessory building shall be 3/12.

(6) The roof construction shall be such that the use of upper story or attic space is not usable for any purpose other than light storage. The bottom chord of the trusses or the ceiling joists shall be designed for a live load not to exceed 20 pounds per square foot. This Subsection (b)(6) shall not apply if the upper story is approved as a second floor ADU.

(c) Accessory buildings in residential districts 50 feet or more from any street line are permitted two feet from the lot line and, where such use is contained within or constitutes an integral part of the main building or is less than 50 feet from any street line, it shall meet all side yard requirements except as modified in Subsections (d) and (e) of this section.

(d) In the R-TRN District, accessory buildings and additions to principal buildings that are located on corner lots and designed for the storage of vehicles shall have a minimum front yard of 16 feet, except where vehicle access to an accessory building on a corner lot is from a public alley, the setback may be reduced to the minimum side yard on a side street as a condition of a residential infill review.

(e) In the R-TRN District, all new accessory buildings and additions to principal buildings that are located on corner lots will require a residential infill review pursuant to Section 39-198.

(f) In the application of these and other residential standards to residential properties within an historic district, the Zoning Board is hereby authorized to modify such standards as special exceptions upon public hearing thereon and a determination from evidence that:

(1) A certificate of appropriateness, conditioned upon zoning approval, has been issued by the Historic District Commission.

(2) All other requirements of building, fire safety, or other applicable codes have been met.

(3) The granting of such exception would not be detrimental to the health, safety, welfare, or reasonable use and enjoyment of adjoining or nearby premises.

(g) Accessory dwelling unit.

(1) An accessory dwelling unit (ADU) is a separate, complete housekeeping unit with kitchen, sleeping area, and full bathroom facilities, which is a detached from a single-family structure. For purposes of Section 39-210, a property with a single-family residence with an ADU permitted by special exception shall be deemed one single-family use permitted under Section 39-210(a).

(2) All structures designed and used as a temporary or permanent dwelling detached from a single-family primary residence on a lot shall be considered an accessory dwelling unit (ADU). ADUs with not more than two occupants shall be permitted as a special exception use by the Zoning Board of Appeals.

(3) An attached ADU will be considered as a conversion, and shall fully comply with the requirements of Section 39-189.

(4) ADUs shall not provide transient accommodations for periods of less than one month.

(5) Establishment, regulations and conditions. The Zoning Board of Appeals may grant a special exception to allow for the construction of a building as an accessory dwelling unit when all of the following conditions exist:

a. The ADU shall be reviewed and approved pursuant to the residential infill regulations, Section 39-198, prior to Zoning Board determination.

b. An applicant seeking permission to establish an accessory dwelling unit shall submit a site plan of the lot indicating the location of the accessory dwelling unit and delineating areas designated for improved off-street parking. Approval by the Zoning Board shall be conditioned upon strict compliance with the site plan relating to parking and development.

c. The Zoning Board shall determine the amount and level of required off-street parking as a condition to the grant of the special exception, considering the increased use, density, and safety of vehicular traffic

movements on the proposed lot pursuant to the requirements of Section 39-48.

d. The applicant shall submit a floor plan showing that the ADU includes a kitchen, bathroom, and sleeping area, and shall meet all provisions of the Michigan Residential Code and Chapter 14 of the Holland City Code of Ordinances.

e. The ADU is compatible and harmonious with the established character of adjoining and nearby residentially developed lands, and no such ADU shall be approved which would, in the opinion of the Board, have a detrimental effect on the reasonable enjoyment of adjoining properties. In making a determination of compatibility, the Zoning Board shall consider such factors as:

1. The ADU shall not result in excessive traffic, parking congestion, or noise.

2. The placement, orientation, and location, of windows and doors of the ADU will not infringe on the privacy of the surrounding neighborhood.

3. Adequate landscaping and/or a six-foot-high solid board fence shall be installed to screen the ADU from the surrounding neighborhood.

4. No more than two persons shall occupy an ADU.

5. The Zoning Board may approve an ADU subject to such additional conditions or restrictions as it deems necessary to assure compatibility with adjoining or nearby residential property, or to protect the health, safety, and general welfare.

f. The applicant shall present evidence that the principal structure on the property is a single-family home.

g. No more than one ADU shall be permitted on a single parcel.

h. Where an ADU is located on a parcel, only one additional accessory structure shall be allowed except as provided in Section 39-185(b)(1) for lots exceeding two acres in size.

i. The finding of fact and conclusions of law of the Zoning Board approving the ADU shall be recorded with the register of deeds of Ottawa County or Allegan County in which the property is situated. Any fees incurred for compliance with this section shall be paid by the applicant.

(6) Development standards.

a. The ADU shall be connected to the City sewer and water services.

b. An ADU may only be located in a residential zone district.

c. An ADU will not be permitted in the area defined as the Hope Neighborhood Area.

d. The ADU will have a minimum living space footprint of 120 square feet and a maximum footprint of 720 square feet.

e. A detached ADU may be located on the first or second floor level of a structure. If the ADU is located on the first floor level, the ADU shall have a maximum average height of 12 feet. If the ADU is located on the second-floor level of a structure, the structure shall have a maximum average height of 24 feet.

f. The ADU shall not exceed 1/3 of the footprint of the main structure.

g. An ADU shall not be located in any front yard.

h. The setback for the ADU to the side and rear yard property lines shall meet or exceed the minimum setbacks established for side yard setback of a principal structure in the zone district in which it is located. On a corner lot, the full side yard on a side street requirement shall meet or exceed the minimum setback established for the principal structure in the zone district in which it is located.

i. Before obtaining a building permit the property owner shall file with the Zoning Administrator a copy of declaration of restrictions, recorded with the county Register of Deeds, containing a reference to the deed under which the property was acquired by the present owner which will state the following:

1. The use permit for the accessory unit shall be in effect only so long as either the main residence or the ADU is occupied as the principal residence by the owner.

2. The unit is restricted to the approved size.

3. The accessory unit shall not be sold separately.

4. All above declarations shall run with the land, and are binding upon any successor in ownership.

5. The deed restriction shall only lapse on the demolition of the ADU.

(7) A property with an ADU shall not also have a short-term rental on the same parcel.

Sec. 39-186. Site plan review. [Ord. No. 1188, 2-19-1997; amended 3-7-2018 by Ord. No. 1727]

Due to the possible impact of certain developments on residential areas, the Planning Commission shall conduct a site plan review in accordance with the provisions of Article II of this chapter when required by Section 39-21.

Sec. 39-187. Minimum residential standards, except in PRD Planned Residential Development District. [Ord. No. 801; Ord. No. 975, 3-1-1989; Ord. No. 1188, 2-19-1997; amended 6-1-2016 by Ord. No. 1669]

(a) In order to assure a minimum degree of harmony among residential structures, the following standards shall apply to residential structures as specified:

(1) No principal structure shall have a habitable floor area of less than 720 square feet. For purposes of this subsection, the term "habitable" shall include bathrooms, closets, halls and areas of similar use.

(2) No principal structure shall have a minimum dimension of less than 24 feet along any horizontal elevation of the principal structure.

(3) No principal structure shall be erected which does not include a pitched roof, having a slope of not less than three inches of rise for each 12 inches of horizontal dimension, over at least 60% of the principal structure.

(4) No principal structure shall be erected except upon and permanently affixed to a solid and continuous foundation of brick, block, concrete or wood, in accordance with building code regulations of the City of Holland.

(5) No structure shall be erected or placed which does not comply in all respects with the building code, the housing code, this chapter and all other regulations of this Code applicable to the development and maintenance of residential premises.

(b) For any development which is multiple-family in nature and numbers 12 dwelling units or more in any configuration, the development shall include a minimum of 50% of the area to be green space. This green space would be any land area not covered with impervious ground cover, buildings, roadways, parking installations. The green space shall be natural vegetation, grass, plantings, pedestrian walkways, recreational facilities or natural water feature. Stones, wood chips, walks, sculpture, or similar material or installation may be included as accessory components of landscaped areas, but shall not in and of themselves be considered as landscaping. The green space shall be maintained to provide attractive landscaping and be in compliance with the provisions of the Charter and Code of the City of Holland.

(c) The foregoing provisions of Subsection (a) above shall not be applicable to mobile homes placed on rented sites in licensed mobile home parks, so long as the state maintains jurisdiction for the licensing of such parks and the operators thereof.

(d) It is not intended that the provisions of Subsection (a) above shall inhibit or prevent quality design or innovation in housing styles. The Zoning Board is hereby authorized to approve deviations from Subsection (a) as special exceptions upon a determination that the granting of such special exception shall not be materially detrimental to the use, enjoyment or value of adjoining premises. In hearing appeals for special exceptions, the Zoning Board shall consider whether the specific structure has been designed for a specific site by an architect or other competent design professional, or incorporates solar heating or other design innovations which would make strict adherence to the provisions of Subsection (a) impractical.

Sec. 39-188. Premanufactured housing. [Ord. No. 801; Ord. No. 1188, 2-19-1997; Ord. No. 1310, 8-1-2001]

(a) Generally. In recognition of improved technology, the need for economic housing and changing legislative and judicial attitudes toward the regulation of housing, it is understood that some housing needs may be met by structures which are constructed in part or in full off-site, and are transported to a building site for permanent placement. Premanufactured housing shall be permitted as permanent dwellings in accordance with the requirements of Section 39-187 and all other applicable ordinances or statutes. In addition, the exterior of any such dwelling shall be free of any visible apparatus or equipment relating to means of transport, including, but not limited to, towing tongues, undercarriage, wheels, bumpers, lifting hooks or vehicular lighting.

(b) Aesthetic standards. Premanufactured homes shall be constructed and placed on residential lots in conformance with community aesthetic standards. The Zoning Board, upon application and public hearing thereon, shall determine if the proposed mobile home is in conformity with community aesthetic standards. The Zoning Board shall consider and prepare findings of fact regarding each of the following criteria:

(1) Whether the type, structure and architectural design of the proposed mobile home is compatible with the type, structure and architectural design of reasonably adjacent and contiguous residential structures;

(2) Whether the exterior appearance, style, roof overhang, window placement and door arrangement of the proposed mobile home is compatible with reasonably adjacent and contiguous residential structures; and

(3) Whether the proposed location of the mobile home and accessory structures shall be injurious to the health, safety or welfare of the proposed mobile home or surrounding property.

(c) Exemption. All premanufactured housing that is certified by the State of Michigan, pursuant to MCLA § 125.1519 Section 19.(1), shall be exempt from Section 39-188(b).

Sec. 39-189. Conversion of buildings and dwellings, except in PRD Planned Residential Development District. [Ord. No. 464, § 9-1.12; Ord. No. 885; Ord. No. 910, 9-3-1986; Ord. No. 1188, 2-19-1997; Ord. No. 1415, § 4, 6-1-2005; amended 6-1-2016 by Ord. No. 1669]

The conversion of an existing building into a dwelling, or conversion of any existing dwelling to increase the number of dwelling units, shall be permitted only as a special exception use, approved by the Zoning Board following a public hearing, and upon the finding of compliance with the following criteria and standards:

(a) An applicant seeking a conversion of a building or dwelling shall submit a site plan of the lot delineating areas designated for improved off-street parking. Approval by the Zoning Board shall be conditioned upon strict compliance with the site plan relating to parking and development.

(b) An applicant seeking exterior alterations or additions to the building or dwelling shall submit drawings or renderings specifically describing and delineating the proposed

improvements. Approval by the Zoning Board shall be conditioned upon strict compliance with the drawings or renderings relating to exterior alterations or additions.

(c) The Zoning Board shall permit the conversion of a building or dwelling if:

(1) The applicant has presented reasonable evidence that the proposed conversion will not adversely affect adjacent and adjoining property because of the increased use, density, and proposed off-street parking layout.

(2) The conversion shall conform in all respects with housing, building, plumbing, heating, and electrical codes, including the historic district regulations, zoning ordinances, and any other codes or regulations of the City applicable to the creation, operation, or rental of residential dwelling units.

(3) The proposed conversion conforms with the requirements of Sections 39-282, 39-224, 39-234, 39-269, and 39-279 where applicable and is a permitted use in the zone district in which the dwelling shall be located.

(4) No conversion shall be allowed which involves exterior alterations or additions which are not architecturally harmonious and compatible with the structure being converted, or with other residential structures in the general vicinity.

(5) The Zoning Board shall determine the amount and level of required off-street parking as a condition to the grant of the special exception, considering the increased use, density, and safety of vehicular traffic movements on the proposed lot pursuant to the requirements of Section 39-48.

(6) The Zoning Board may approve the conversion of a building or dwelling subject to such additional conditions or restrictions as it deems necessary to assure compatibility with adjoining or nearby residential property, or to protect the health, safety, and general welfare.

(d) The findings of fact and conclusions of law of the Zoning Board approving the conversion of a building or dwelling shall be recorded with the register of deeds of Ottawa County or Allegan County in which the property is situated. Any fees incurred for compliance with this section shall be paid by the applicant.

Sec. 39-190. Nonconforming uses of converted dwellings and buildings. [Ord. No. 910, 9-3-1986; Ord. No. 1188, 2-19-1997]

Notwithstanding the provisions of Section 39-189, no provision of this Code shall be interpreted, construed, or determined to authorize or permit the use of a dwelling or building for multifamily uses or occupancy which was not lawfully existing and permitted on the effective date of the adoption of Section 39-189.

Sec. 39-191. Rear dwellings, except in PRD Planned Residential Development District. [Ord. No. 464, § 9-1.12; Ord. No. 1188, 2-19-1997; amended 6-3-2015 by Ord. No. 1650; 6-1-2016 by Ord. No. 1669]

No accessory building, other than an accessory dwelling unit reviewed and approved in accordance with Section 39-185, in the rear of a main building on the same lot shall be used for residential purposes.

Sec. 39-192. Home occupations and home businesses. [Ord. No. 1366, § 2, 8-20-2003; Ord. No. 1461, 9-6-2006; Ord. No. 1525, 1-7-2009]

(a) Intent. The intent of this section is to protect residential areas from any significant impacts associated with home occupations and businesses, and to establish criteria and standards for conducting home occupations and businesses within residential zone districts. The intent of this section is also to allow and encourage residents to pursue greater business and financial independence and resources through the creation of home occupations and home based businesses. Home occupations and businesses provide a wide range of business opportunities for the residents of this community as well as being potential incubators for larger future commercial businesses that may enhance the economic development of the City of Holland and the larger Holland area.

(b) Home occupation and home business special exception permit procedures and enforcement.

(1) Approval procedure for home occupations. A home occupation is permitted by right subject to the conditions of Section 39-192(c). No special exception permit is required.

(2) Special exception permit procedure for Type 1 home businesses.

a. Applications for Type 1 home businesses shall be filed with the Zoning Administrator.

b. The Zoning Administrator shall issue a special exception permit for such a home business that complies with Section 39-192(d) within 15 calendar days. This review period may be extended upon mutual consent of the Zoning Administrator and the applicant.

c. Appeals of a Zoning Administrator decision shall be made to the Zoning Board of Appeals. The Zoning Board of Appeals shall affirm, overturn, or modify the original decision of the Zoning Administrator after holding a public hearing and conducting a thorough review of the record.

(3) Special exception permit procedure for Type 2 home businesses.

a. Applications for Type 2 home businesses shall be filed with the City Clerk.

b. The Zoning Board of Appeals shall hold a public hearing and shall evaluate and make a decision regarding the application pursuant to Section 39-192(e).

c. The Zoning Administrator shall issue a special exception permit for a Type 2 home business upon approval by the Zoning Board of Appeals.

(4) Enforcement.

a. Inspections. All home occupations and Type 1 and Type 2 home businesses are subject to inspections.

b. Violations. Violation of the applicable requirements set forth in Section 39-192(c) through (e) shall be deemed as a violation of this section and shall constitute grounds for revocation of a Type 1 or Type 2 home business special exception permit.

c. Notice. Whenever the Zoning Administrator determines that there has been or is a violation, or that there are reasonable grounds to believe that there has been or is a violation, of any provision of this section he or her shall give notice of such violation or alleged violation to the person responsible therefore. Such notice shall:

1. Be in writing;

2. Include a description of the real estate sufficient for identification;

3. Specify the violation which exists, the remedial action required, and the penalty for noncompliance being the revocation of the special exception permit; and

4. Allow a reasonable time for the performance of any act it requires.

d. Noncompliance with specified required remedial action; required hearing. In case any violation is not remedied within the time set forth in the notice, the Zoning Administrator may schedule a hearing before the Zoning Board of Appeals to consider revoking the special exception authorizing a home business. The person subject to the required remedial action may appear and present evidence in response to the enforcement notice. During the hearing, the Zoning Administrator or designated representative shall specify the violation(s) that exists and the remedial action required, the Zoning Board of Appeals shall then determine whether to revoke the special exception permit, allow additional time to remedy the violation or impose additional conditions to remedy the violation(s).

e. Civil infraction. In addition to revocation described in Subsection d., of this section, a person who violates or fails to comply with any provisions of this section is responsible for a class II municipal civil infraction and subject to the civil fines set forth in the schedule of fees and charges adopted in Section 2-118 of this Code or any other relief that may be imposed by the court. Each act of violation and each day upon which such violation occurs shall constitute a separate violation.

(5) Registration of Type 1 and Type 2 home business special exception permits. Commencing one calendar year after the initial approval of the Type 1 and Type 2 home business special exception permits, and then every two calendar years thereafter, the permit holder shall be required to register their home based

business with the City on a form to be supplied by the City. Said form will state the terms and conditions of the original special exception permit and/or attach a copy of said permit, and require the permit holder to attest their compliance with the terms and conditions of the special exception permit. Failure on behalf of a special exception permit holder to file the required registration may result in the termination of the Type 1 or Type 2 home business special exception permit.

(6) Expiration of Type 1 and Type 2 home business special exception permits. Upon the cessation of a home business for a period of 180 days, the Type 1 or Type 2 home business special exception permit shall expire and be of no further effect.

(c) Home occupation general requirements and performance criteria. All home occupations shall comply with the following standards:

(1) The home occupation shall be clearly incidental and secondary to the principal residential use of the dwelling.

(2) Within the home, a home occupation shall be conducted solely by persons residing in the dwelling. Off-site employees are permitted.

(3) All home occupation activities, including storage, shall be conducted entirely within the interior of the dwelling and/or accessory building. No outside storage is permitted. Materials, supplies, and merchandise shall be stored in a manner that does not pose a safety hazard to the dwelling, dwelling occupants, or adjoining properties and occupants, and shall not result in a change of use of the property or an activity prohibited by the Michigan Building Code.

(4) There shall be no exterior alteration in the residential character of the premises in connection with the home occupation.

(5) The home occupation shall not generate noise, vibrations, smoke, dust, odor, heat, or glare which are detectable beyond the property lines. Furthermore, the home business shall not generate any electrical interference with radio or television transmission in the area that would exceed that which is normally produced by a dwelling unit in a residential zoning district used for residential purposes.

(6) Except for music students, there shall be no client, customer, or employee traffic generated by the home occupation and the home occupation shall not require additional on-street or off-street parking. The delivery and pickup of goods and materials used and/or produced in the operation of the home occupation shall be limited to the customary delivery and pickup of mail and packages by the United States Postal Service, or by alternative private delivery services common to residential property in which the home occupation is located. Such deliveries and pickups shall not require a vehicle larger than a step-type van.

(7) No signage is permitted.

(8) More than one home occupation is allowed on the premises if the additional home occupation meets all of the standards of this section.

(9) Compliance with all other applicable local, state, and federal laws and regulations.

(d) Type 1 home business general requirements and performance criteria. All such home businesses shall comply with the following standards:

(1) The home business shall be clearly incidental and secondary to the principal residential use of the dwelling.

(2) A home business shall be conducted solely by persons residing in the dwelling. Off-site employees are permitted.

(3) All home business activities, including storage, shall be conducted entirely within the interior of the dwelling and/or accessory building. No outside storage is permitted. Materials, supplies, and merchandise shall be stored in a manner that does not pose a safety hazard to the dwelling, dwelling occupants, or adjoining properties and occupants, and shall not result in a change of use of the property or an activity prohibited by the Michigan Building Code.

(4) There shall be no exterior alteration in the residential character of the premises in connection with the home business.

(5) The home business shall not generate noise, vibrations, smoke, dust, odor, heat, or glare which are detectable beyond the property lines. Furthermore, the home business shall not generate any electrical interference with radio or television transmission in the area that would exceed that which is normally produced by a dwelling unit in a residential zoning district used for residential purposes.

(6) On-site customer sales and the pick up of merchandise by clients, customers, or other business related individuals shall be limited to:

a. Items commonly collected or traded, and occasionally sold by hobbyists such as coins, stamps and antiques;

b. Artistic or craft type products produced on the premises;

c. Incidental supplies necessary for and consumed in the conduct of such home business;

d. The pickup of merchandise produced on-site by the home business.

(7) The home business shall be limited to a maximum of 50% of the floor area of one story of the dwelling, and 50% of the floor area of a detached accessory building.

(8) No more than two clients, customers, or other business related individuals shall be received at any one time. No clients, customers, or other business related individuals shall be permitted on-site between the hours of 9:00 p.m. and 7:00 a.m.

(9) Customers and clients shall not generate in excess of 10 total vehicle trips per day (a trip is composed of a passenger vehicle arriving at and then leaving the premises and/or on-street area near the premises).

(10) In addition to regular United States postal letter carrier service, the delivery and pickup of goods and materials used and/or produced in the operation of the home business shall be limited to one combined delivery and pickup per day averaged

over the course of a calendar week. Such deliveries and pickups of mail and packages shall be done by the United States Postal Service, and by alternative private delivery services common to residential property in which the home business is located. Such deliveries and pickups shall not require a vehicle larger than a step-type van.

(11) A minimum of two parking spaces shall be available for the home business either on-site and/or on the street immediately in front of the premises.

(12) No signage is permitted.

(13) Compliance with a housing inspection conducted in accordance with Section 14-4.32 of the City Code.

(14) There shall be a maximum of one home business per dwelling.

(15) Compliance with all other applicable local, state, and federal laws and regulations.

(e) Type 2 home business general requirements and performance criteria.

(1) General requirements.

a. The Zoning Board of Appeals shall use the Type 1 home business general requirements and performance criteria as an impact guide when evaluating a Type 2 home business special exception permit request.

b. The home business shall be clearly incidental and secondary to the principal residential use of the dwelling.

c. A home business shall be conducted solely by persons residing in the dwelling, plus not more than one nonresident employee/independent contractor or other person engaged in the conduct of the business on the premises at one time. Off-site employees are permitted.

d. There shall be no exterior alteration in the residential character of the premises in connection with the home business.

e. The home business shall not generate noise, vibrations, smoke, dust, odor, heat, or glare which is detectable beyond the property lines, except outdoor recreational lessons/instruction pursuant to the following Section 39-192(e)(2)f., may produce noise generated by a person's voice or noise produced by a person's recreational activity that is detectable beyond the property lines. Furthermore, the home business shall not generate any electrical interference with radio or television transmission in the area that would exceed that which is normally produced by a dwelling unit in a residential zoning district used for residential purposes.

f. On-site customer sales and the pick up of merchandise by clients, customers, or other business related individuals shall be limited to:

1. Items commonly collected or traded, and occasionally sold by hobbyists such as coins, stamps and antiques;

2. Artistic or craft type products produced on the premises;

3. Incidental supplies necessary for and consumed in the conduct of such home business;

4. The pickup of merchandise produced on-site by the home business.

g. The authorizing of such special exception will not be of substantial detriment to the surrounding neighborhood and will not materially impair the intent and purposes of this chapter or the public health, safety and welfare.

h. No signage is permitted.

i. Compliance with a housing inspection conducted in accordance with Section 14-4.32 of the City Code.

j. There shall be a maximum of one home business per dwelling.

k. Compliance with all other applicable local, state, and federal laws and regulations.

(2) Performance criteria.

a. All home business activities, including storage, shall be conducted entirely within the interior of the dwelling and/or accessory building, unless the Zoning Board of Appeals approves outdoor business and/or storage activities pursuant to the following Subsection f. Materials, supplies, and merchandise shall be stored in a manner that does not pose a safety hazard to the dwelling, dwelling occupants, or adjoining properties and occupants, and shall not result in a change of use of the property or an activity prohibited by the Michigan Building Code.

b. The home business shall be limited to a maximum of 50% of the floor area of one story of the dwelling, and 50% of the floor area of a detached accessory building. The Zoning Board of Appeals may allow a greater amount of the floor area of a detached accessory building to be used for a home business if they determine such greater amount would still keep the home business incidental and secondary to the principal residential use of the dwelling.

c. The number of clients or customers that shall be allowed at any one time shall be determined by the Zoning Board of Appeals. No clients, customers, or other business related individuals shall be permitted on-site between the hours of 9:00 p.m. and 7:00 a.m.

d. The number of allowable vehicle trips per day by customers and clients to the premises shall be determined by the Zoning Board of Appeals. In addition to regular United States postal letter carrier service, the number of allowable deliveries and pickups per day of goods and materials used and/ or produced in the operation of the home business shall also be determined by the Zoning Board of Appeals. Said deliveries and pickups of mail and packages shall be completed by the United States Postal Service, and by

alternative private delivery services common to residential property in which the home business is located. Deliveries and pickups shall not require a vehicle larger than a step-type van.

e. On-site parking shall be provided in an amount as determined necessary by the Zoning Board of Appeals in accordance with Article IV of this chapter.

f. Permitted outdoor business, sales, and storage activities such as but not limited to recreational lessons/instruction, sales of horticultural products, and sales of arts and crafts produced on-site may be approved by the Zoning Board of Appeals with the following additional requirements:

1. Recreational lessons/instruction. Instruction areas shall be limited to rear and side yard areas and shall be enclosed with a fence as required by the Zoning Board of Appeals.

2. Sale and display of horticultural products and arts and crafts.

(a) Products for sale shall be limited to horticultural products of flowers, fruits or vegetables, and homemade arts and crafts.

(b) Sales shall be limited to one continuous three-week period each calendar year per parcel; the dates are to be specified by the Zoning Board of Appeals in its findings of fact approving the home business.

(c) Once initially approved by the Zoning Board of Appeals, the applicant must annually obtain review and approval by the Zoning Administrator for the second and any subsequent years. The Zoning Administrator shall approve the seasonal home business if (i) the Zoning Administrator determines that the seasonal home business will be operated under the same terms and conditions as originally approved by the Zoning Board of Appeals and (ii) no written complaints have been received by the Zoning Administrator concerning the operation of the seasonal home business during the prior year. If the Zoning Administrator determines that there are changes in the seasonal home business or received written complaints during the past year, the applicant must apply for review and approval by the Zoning Board of Appeals for continued operation of the seasonal home business.

g. Such other reasonable conditions and limitations as may be imposed by the Zoning Board of Appeals to protect nearby residential premises and persons.

(f) Prohibited home occupations and businesses. The following shall not be permitted as a home occupation or a home business:

(1) Any repair of motorized vehicles such as engine repair, painting, or body work to automobiles, trucks, trailers, boats, heavy equipment, and lawn/landscaping equipment.

(2) Parking and storage of heavy equipment.

(3) Any of the uses listed in Section 39-72 of this chapter.

(g) Home occupation and home business exemptions. The following shall not be classified as a home occupation or home business and are exempt from the provisions of this Section 39-192.

(1) Sale of horticultural products grown on the premises.

(2) Garage/yard sales that occur three or fewer times per year, and last four or fewer consecutive days per event.

Sec. 39-192.1. Possession, cultivation, acquisition, etc., of marihuana for medical use. [Ord. No. 1564, 6-1-2011; amended 3-7-2018 by Ord. No. 1727]

(a) Definitions. The following definitions shall apply to this section:

MARIHUANA — This term shall have the meaning given to it in Section 7601 of the Michigan Public Health Code, 1978 PA 368, MCLA § 333.7106, as is referred to in the Michigan Medical Marihuana Act, PA 2008, Initiated Law (the "Act"), at Section 3(e), MCLA § 333.26423(e).

MEDICAL USE OF MARIHUANA — The acquisition, cultivation, manufacture, transfer or transportation of marihuana or paraphernalia relating to the administration of marihuana to treat or alleviate a person's debilitating medical condition or symptoms associated with the debilitating medical condition, as defined under the Michigan Medical Marihuana Act, PA 2008, Initiated Law, MCLA § 333.262423(h).

PRIMARY CAREGIVER — A person who qualifies as a primary caregiver as defined in MCLA § 333.26423(k).

QUALIFYING PATIENT — A person who qualifies as a qualifying patient as defined in MCLA § 333.26423(1) and (p).

(b) Medical use of marihuana. No property in any zone district shall be used for the medical use of marihuana except as provided in this Section 39-192.1. The Zoning Board of Appeals may not grant a variance from the requirements of this section.

(c) Medical use of marihuana by a qualifying patient.

(1) A qualifying patient may use his or her principal residence, but only for the qualifying patient's own medical use of marihuana. There shall not be more than 12 marihuana plants per qualifying patient residing in a single dwelling. There shall not be more than a total of 72 marihuana plants in a dwelling for all resident qualifying patients.

(2) The medical use of marihuana by qualifying patients shall comply with all of the general requirements listed in Subsections (f)(1) through (6), (9) through (12), (14) and (15).

(d) Medical use of marihuana by a primary caregiver. A primary caregiver may engage in the medical use of marihuana only as a medical marihuana home occupation as

authorized in this Section 39-192.1. A primary caregiver may also be a qualifying patient.

(e) Procedure for allowing the medical use of marihuana by a primary caregiver; confidentiality of information; appeals.

(1) A primary caregiver that meets the criteria for a medical marihuana home occupation under Subsections (f), (g) and (h) of this section shall be allowed only if the property owner or tenant first obtains a special exception permit for the property, subject to ongoing compliance with Subsections (f), (g) and (h) of this section.

(2) An application for special exception to allow a medical marihuana home occupation shall be filed with the Zoning Administrator.

a. The application shall not require the name or address of a qualifying patient or primary caregiver. The application shall require the consent of a property owner. The application shall be on a form prescribed by the Zoning Administrator.

b. The Zoning Administrator shall issue a special exception permit for a medical marihuana home occupation within 15 calendar days if the Zoning Administrator determines that:

1. The application is complete;

2. The applicant complies with Subsections (f), (g) and (h) of this section; and

3. This review period may be extended upon mutual consent of the Zoning Administrator and the applicant.

c. Pursuant to MCLA § 333.26426, the name and address of a qualifying patient and primary caregiver, as such, shall not be released to the public but shall be kept confidential, except to the extent authorized or required by the Act, or to the extent required by the Michigan Freedom of Information Act or by other law. The location of a medical marihuana home occupation may be disclosed to law enforcement personnel. This section shall not be interpreted to require that the name of a tenant or property owner be kept confidential.

d. Appeals from the Zoning Administrator's decision shall be made to the Zoning Board of Appeals. The Zoning Board of Appeals shall affirm, overturn, or modify the original decision of the Zoning Administrator after holding a public hearing and conducting a thorough review of the record. The name of a qualified patient and the primary caregiver, as such, shall not be disclosed during the course of appeal but the appeal shall only be in the name of an aggrieved party, unless otherwise required by law.

(f) General conditions applicable to medical marihuana home occupations.

(1) A medical marihuana home occupation shall be clearly incidental and secondary to the principal residential use of the dwelling.

(2) The medical marihuana home occupation shall be limited to a maximum of 50% of the floor area of one story of the dwelling.

(3) All activities of the medical marihuana home occupation, including storage, shall be conducted entirely within the interior of the dwelling. No outside storage is permitted. Materials, supplies, and merchandise shall be stored in a manner that does not pose a safety hazard to the dwelling, dwelling occupants, or adjoining properties and occupants, and shall not result in a change of use of the property or an activity prohibited by the Michigan Building Code.

(4) There shall be no exterior alteration in the residential character of the premises in connection with the medical marihuana home occupation.

(5) The medical marihuana home occupation shall not generate noise, vibrations, smoke, dust, odor, heat, or glare which are detectable beyond the property lines and not in other dwelling units on the same parcel of property. Furthermore, the home business shall not generate any electrical interference with radio or television transmission in the area that would exceed that which is normally produced by a dwelling unit in a residential zoning district used for residential purposes.

(6) No signage is permitted for a medical marihuana home occupation.

(7) There shall be a maximum of one medical marihuana home occupation per dwelling.

(8) There shall be not more than one primary caregiver engaged in the medical use of marihuana per dwelling. A primary caregiver shall not have more than five qualifying patients and shall only serve qualifying patients.

(9) There shall be no more than 12 marihuana plants kept in the dwelling for each qualifying patient assisted by the primary caregiver, and in no event shall there be more than a total of 72 marihuana plants kept in the dwelling. Any incidental amount of seeds, stalks, and unusable roots shall also be allowed to the extent allowed under state law and shall not be included in this amount.

(10) No marihuana may be kept on site for persons other than qualifying patients a) who have currently designated the primary caregiver as their primary caregiver; or b) who currently reside in the dwelling.

(11) Marihuana shall be kept in a fully enclosed, locked room or enclosure accessible only by the primary caregiver.

(12) If a room with windows is utilized as a marihuana growing location, any lighting methods that exceed usual residential use between the hours of 11:00 p.m. and 6:00 a.m. shall employ shielding methods, without alteration to the exterior of the residence, to prevent ambient light spillage that causes or creates a distraction or nuisance to adjacent residential properties.

(13) An owner or tenant shall arrange for, and comply with, an inspection conducted to determine compliance with this Section 39-192.1, prior to operation of a medical marihuana home occupation.

(14) A medical marihuana home occupation shall not have employees who do not reside in the dwelling.

(15) A medical marihuana home occupation shall comply with all other applicable local and state laws and regulations, including, but not limited to, building, electrical, plumbing, mechanical and maintenance codes and permit requirements under such codes and with the Act.

(g) Medical marihuana home occupation special requirements. All medical marihuana home occupations shall comply with the following standards:

(1) There shall be no visits by qualifying patients or other medical marihuana users generated by the medical marihuana home occupation (other than persons who reside in the dwelling). There shall be no on-site pickup or delivery of medical marihuana by qualifying patients, other medical marihuana users or others. There shall be no deliveries in public rights-of-way or on public property.

(2) The home occupation shall not require additional on-street or off-street parking.

(3) The delivery and pickup of goods and materials used and/or produced in the operation of the medical marihuana home occupation shall be limited to the customary delivery and pickup of mail and packages by the United States Postal Service, or by alternative private delivery services common to residential property in which the medical marihuana home occupation is located. Such deliveries and pickups shall not require a vehicle larger than a step-type van.

(4) The home occupation shall not be within 1,000 feet of the real property comprising a public or private elementary, vocational, or secondary school or a public or private college, junior college, or university, or a playground, or housing facility owned by a public housing authority, or within 100 feet of a public or private youth center, public swimming pool, or video arcade facility. The distances in this subsection shall be interpreted to be the same as under 21 U.S.C. § 860.

(h) Renewal of special exception, inspections. A special exception for a medical marihuana home occupation shall expire on April 30 of each year but may be renewed upon determination that the medical marihuana home occupation continues to comply with the criteria of this Section 39-192.1. The applicant for renewal under this section shall arrange for, and comply with, an inspection conducted to determine compliance with this Section 39-192.1.

(i) Additional inspections. A medical marihuana home occupation is subject to inspection to determine compliance with this Section 39-192.1, and state or federal law upon receipt of a complaint for violation of this section or state law relating to the use of medical marihuana by the Holland Department of Public Safety or the Holland Department of Community and Neighborhood Services.

(j) Enforcement. Violations of this section shall be enforced in the manner provided in Section 39-192(b)(4).

(k) No immunity from prosecution. Nothing in this section, nor any companion regulatory provision or other provision of the Holland City Code, is intended to grant, nor shall be

construed as granting, immunity from criminal prosecution for the cultivation, sale, consumption, use, distribution or possession of marihuana which is not in strict compliance with the Act and the general rules and this subsection.

(l) Federal preemption.

(1) Since federal law is not affected by the Act, nothing in this chapter, or in any companion regulatory provision or any other provision of this Code, is intended to grant, nor shall they be construed as granting, immunity from criminal prosecution under federal law. Neither this ordinance nor the Act protects users, caregivers or owners of properties on which the medical use of marihuana is occurring from federal prosecution, or from having their property seized by federal authorities under the Federal Controlled Substances Act.[12]

(2) In the event that it is determined by judicial or other legal action that the provisions of the Act are preempted by federal law and/or invalid, all the rights granted under this section shall be deemed null and void.

(m) City regulations. The Department of Community and Neighborhood Services may adopt or amend rules pursuant to Section 1-7 of the Holland City Code, subject to approval by the City Council, as necessary to govern the procedures and interpretation of this Section 39-192.1.

Sec. 39-193. House trailers. [Ord. No. 464, § 9-1.12; Ord. No. 1188, 2-19-1997]

House trailers are not considered dwelling units or as an accessory to a permitted use; provided, however, that single house trailers may be allowed on a temporary basis in accordance with Chapter 35.

Sec. 39-194. Bed-and-breakfast homes. [Ord. No. 464, § 9-1.12; Ord. No. 1006, 10-17-1990; Ord. No. 1188, 2-19-1997; Ord. No. 1738]

The use, conversion, or expansion of existing residences for bed-and-breakfast accommodation, formerly known as tourist homes, may be permitted in residential zone districts, subject findings of compliance with the following standards.

(a) One to four guest rooms shall receive administrative approval by the zoning administrator providing the following conditions are met:

(1) All criteria set forth in Section 39-189 for conversion of buildings and dwellings shall apply to the conversion of a residence or structure to a bed-and-breakfast establishment, including requirements for hearing, requisite findings of fact, and attachment of reasonable conditions to any such approval.

(2) In addition to the foregoing, the following additional criteria shall apply:

a. Bed-and-breakfast establishments may be approved only for owner-occupied premises which are the principal residence of the owner operator,

12. Editor's Note: See 21 U.S.C. § 801 et seq.

and shall be limited to not more than four guest rooms or 12 guests in addition to resident family members.

b. Approval shall be conditioned upon compliance with all licensing fees, inspections, and approvals of Chapter 26 applicable to public lodging facilities.

c. Full bathroom facilities shall be available at a ratio of not less than one bathroom for every two guest rooms, in addition to separate full bathroom facilities for the owner. Separate cooking facilities shall not be available to bed-and-breakfast guests.

d. In reaching a determination on required parking, not less than one improved space shall be provided for each guest room, in addition to not less than one space for the owner resident. Each such space shall be independently accessible to a street, or to an unobstructed driveway leading to a street. The parking required for guests may be provided on other private sites within 300 feet if such space conforms to all applicable requirements of this Code; a written agreement with the owner of such space is provided insuring its availability for the licensing period; and the terms of the agreement permit renewal for subsequent annual relicensing of the bed-and-breakfast establishment. Irrespective of the terms of the original approval, any subsequent reduction of available parking shall cause corresponding reduction in the number of guest rooms as may be necessary to assure compliance with this regulation.

e. A bed-and-breakfast establishment shall be permitted one freestanding identification sign not exceeding four square feet in area nor three feet in height to be located not less than 15 feet from the public right-of-way or one identification sign not exceeding six square feet in area which shall be affixed flat against the residence.

f. Maximum length of stay of any guest of the bed-and-breakfast shall not exceed 21 consecutive days.

(b) Five to eight guest rooms shall require a special exception by the Zoning Board of Appeals subject to the following conditions being met:

(1) All regulations set forth in Section 39-194(a)(1) and (2) above;

(2) The lot size shall not be less than 15,000 square feet;

(3) Landscaping and screening in the form of natural vegetation and/or fencing shall be provided to buffer and soften the view from neighboring residential properties between parking areas and adjacent residential uses;

(4) The applicant agrees that the Zoning Board of Appeals will determine the number of guests allowed.

Sec. 39-195. Private swimming pools. [Ord. No. 492; Ord. No. 1188, 2-19-1997]

Private swimming pools may be constructed as accessory uses in residential districts; provided, that all such pools, together with required fencing, shall be located and constructed in accordance with the City building code, being Chapter 6 of this Code. In no case shall any such pool or its fencing protrude into the required front yard or side street side yard area.

Sec. 39-196. Division of residential lots. [Ord. No. 587; Ord. No. 714; Ord. No. 1188, 2-19-1997]

Notwithstanding other provisions of this chapter, it is the intent of this division that the dividing of any property for purposes of residential development be such that any lot created by division have direct and immediate frontage on a public street, unless otherwise approved in a recorded subdivision, planned residential development or mobile home development. It is recognized, however, that owning to hills, streams or other topographical features or to utility installations or easements, certain undeveloped or partially developed properties may exist which cannot be reasonably developed or divided so as to provide all lots with direct and immediate frontage on a public street. The division of such properties so as to situate one lot behind another, in its relation to a public street, may be approved as a special exception by the Zoning Board, subject to public hearing thereon and compliance with the following criteria:

(a) Any rear lot shall have access to a public street as required by Section 39-16. Said lot shall comply in all respects with the lot area and width requirements of the zone district in which it is located, and shall be subject to determination by the Zoning Board as to appropriate front and rear lot lines for setback purposes, based on the particular conditions applying to the property and to surrounding area.

(b) Approval of any such division shall be conditioned upon the submission, by the applicant, of a plot plan drawn to scale and indicating the relationship of the proposed divisions to adjoining streets and neighboring properties. In addition to its review by the Board, such plan shall be reviewed with respect to the Plat Act, Master Plan, street plan, utility plan or other plans or ordinances of the City applicable to the use or division of land, and shall not be in nonconformity with any of the provisions thereof.

(c) Any rear lot approved in such division shall be accessible to, and developed with connections to, City sewer and water services. When any such division creates lots which are not included in a utility assessment district, or in excess of the number of benefits assessed, such lots shall be subject to utility service assessment at the prevailing rate in effect at such time as the division is approved by the Board.

(d) Such division shall be found by the Zoning Board to be compatible and harmonious with the established character of adjoining and nearby residentially developed lands, and no such division shall be approved which would, in the opinion of the Board, have a detrimental effect on the reasonable enjoyment of adjoining properties. In making a determination of compatibility, the Zoning Board shall consider such factors as:

(1) The width, depth and lot area of established lots in the neighborhood in which such division is proposed.

(2) The proposed development of lots and dwellings in relation to other lots, whether developed or undeveloped, in the neighborhood.

(3) The effect of additional curb cuts and traffic resulting from the proposed division.

Sec. 39-197. Accessory uses of residential yards. [Ord. No. 818; Ord. No. 1188, 2-19-1997; Ord. No. 1374, § 2, 11-19-2003; Ord. No. 1459, § 3, 8-2-2006; amended 6-3-2015 by Ord. No. 1650; 10-7-2015 by Ord. No. 1655; 1-2-2019 by Ord. No. 1758]

The following uses or encroachments shall not be deemed inconsistent with the intent and purpose of maintaining open unoccupied residential yard spaces, and may be permitted in required residential yard areas. In no case, however, shall any residential yard area be used for any purpose or in any manner which would adversely affect a reasonable enjoyment of adjoining properties, or which would be likely to create or increase a nuisance.

(a) The following residential accessory uses shall be permitted:

(1) Open, uncovered steps, landings, patios or decks not exceeding three feet above the adjoining grade, and encroaching no further than 50% into a required yard area.

(2) Arbors, trellises, yard ornaments, statuary, flagpoles.

(3) Laundry drying lines or devices.

(4) Eaves or awnings projecting not more than three feet beyond the face of a wall, but in no case closer than one foot to property line.

(5) Plantings, shrubs, landscaping and indigenous vegetation.

(6) Parking of passenger vehicles in approved parking areas.

(7) Pole-mounted yard lights.

(8) Brick veneer or other new exterior wall surfacing to existing buildings.

(9) Signs which are permitted by Article IX of this chapter.

(10) Architectural features, such as bay windows and chimneys not exceeding 25% of the wall length, and projecting not more than three feet from the face of a wall and encroaching no closer than three feet to any property line.

(11) Mailboxes in accordance with federal law.

(12) Fences as allowed by Section 39-11.

(13) Sandboxes, swings, picnic tables, barbecues and similar accessory recreational equipment.

(14) Pad-mounted air-conditioning, heating or ventilating equipment, when located in front or rear yards or when located a minimum of two feet from any side yard lot line.

(15) Accessory buildings as permitted by this chapter.

(16) Swimming pools as permitted by Section 39-195.

(17) Refuse storage facilities, in accordance with Chapter 27 of this Code.

(18) Outdoor game courts in rear yards.

(19) Uses not specifically itemized, but which are similar in nature to any of the foregoing uses.

(b) In addition to the foregoing, fences of unrestricted height, playground equipment, shelters or pavilions, fountains, sculpture and similar installations of a scale not commonly found in residential yards shall be permitted in conjunction with permitted nonresidential uses in residential zone districts.

(c) Notwithstanding the foregoing, no fence, hedge, vegetation or other obstruction shall be permitted or maintained which materially impedes traffic visibility across a corner lot, or otherwise obstructs required open spaces in a manner that constitutes a hazard to the safe use of public streets and sidewalks as determined by the Police Department.

Sec. 39-198. Residential infill regulations. [Ord. No. 1234, 12-16-1997; Ord. No. 1282, 7-5-2000; Ord. No. 1359, 3-5-2003; Ord. No. 1415, § 6, 6-1-2005; Ord. No. 1422, § 1, 9-7-2005; Ord. No. 1461, 9-6-2006; Ord. No. 1478, § 2, 6-6-2007; Ord. No. 1486, 12-19-2008; Ord. No. 1576, 1-18-2012; amended 1-16-2013 by Ord. No. 1599; 7-10-2013 by Ord. No. 1612; 7-16-2014 by Ord. No. 1632; 6-3-2015 by Ord. No. 1650; 6-1-2016 by Ord. No. 1671]

(a) Preamble.

(1) An infill development places a newly constructed or moved dwelling into an established residential context that may reflect architectural styles, design features, use of materials, or placement of structures that are clearly indicative of a particular era, and which help define the visual character and preserve the economic stability of a given neighborhood. The neighborhoods listed in Subsection (b) are such established residential areas.

(2) In order to protect the public welfare in such established residential areas, to preserve and protect property values, to assure architectural compatibility within neighborhoods, to prevent visual conflict, and to promote complementary design, residential infill development as defined herein shall be subject to the procedures and standards set forth in this section.

(2.1) In order to encourage the development of housing units for persons with disabilities or limited mobility, the infill review shall allow reasonable deviation from the stated standards of review in Section 39-198(g) where necessary to include features that facilitate access to buildings and structures.

(3) This section is intended to promote quality development and eliminate conditions of gross design incompatibility that have the potential for enduring a century or more. It is not intended to stifle individuality or compel rigid conformity. Recognizing that great diversity of style, often between homes side by side, is one of Holland's central neighborhood strengths, this article is created and

adopted with the intention that the acceptable level of compliance with these standards will be the minimum necessary to assure compatibility. This section's enforcement is premised upon achieving compatibility, not conformity.

(4) In the Central Park Neighborhood area, the combination of small lot sizes, the distinctive cottage character, the narrow streets and rights-of-way and the compact geography of the neighborhood create a residential neighborhood that is relatively fragile in nature. Existing nonresidential structures are imbedded within and immediately adjacent to the residential properties which may tend to amplify the nonresidential characteristics of noise, vehicle traffic and parking, and lighting needs on the surrounding cottage residential properties. Therefore, there is a heightened concern regarding the compatibility of existing and future nonresidential structures on the character of this historic residential neighborhood.

(b) Applicability. It is the intent of this section to regulate the placement, presentation and character of new dwellings, accessory buildings and the enclosure of existing open front porches built in residential areas of established, discernible, and relatively homogeneous character; to regulate the moving of any building into such an area; and in the area of Subsection (b)(2) below to regulate the placement, presentation and character of any new nonresidential building, and additions to existing nonresidential buildings. For purposes of this section, the procedures and standards herein shall apply to new or relocated residential structures; new or relocated accessory buildings; new nonresidential buildings or additions to existing nonresidential buildings; existing buildings where it is proposed to lift the first floor elevation above the height of the existing first floor elevation; and the enclosure of existing open front porches proposed on the following lots:

(1) Any lot within a residential zone which is situated in the Central Neighborhood District, as defined in Section 39-2, with the exception of any lot located in one of the City's historic districts that would otherwise require a certificate of appropriateness;

(2) Any residential or nonresidential lot located within the Central Park Neighborhood area bounded by East End Drive, West End Drive, South Shore Drive and Lake Macatawa, together with those properties with frontage on the west side of West End Drive;

(3) Any lot within a residential zone district throughout the City onto which a dwelling is proposed to be moved from another location;

(4) Any lot within a C-1 Neighborhood Commercial Zone District which is proposed to be used for the construction or placement of a new or relocated residential structure;

(5) Where 50% or more of the exterior shell of a residential structure on a lot specified above is to be demolished and reconstructed or substantially altered in a manner different than the existing (or previously existing structure, if damaged by fire, storm or other condition) residential structure, the reconstruction or alteration shall be subject to review under this section;

(6) Any new accessory building or addition to an existing principal building located on a corner lot in the R-TRN Traditional Residential Neighborhood District; and

(7) Any new or addition to an accessory dwelling unit.

(c) Restrictive covenants. It is not intended that review under this section in any way abrogate or supersede the valid application of restrictive covenants that may be in effect at the time of adoption of this section. To the extent that an applicant demonstrates that the requirements of this section are inconsistent with or made impractical due to those restrictive covenants, the applicant shall not be required to comply with conflicting standards of this section but must comply with the restrictive covenants.

(d) Required filings. Any person intending to either construct, reconstruct or move a dwelling or accessory structure on or onto a lot, enclose an existing open front porch, or construct a new nonresidential building, make additions to an existing nonresidential building, or an accessory dwelling unit regulated by this section shall file with the Department of Community and Neighborhood Services an application accompanied by an accurately dimensioned site plan showing the placement of all structures, and detailed scaled elevation sketches or photographs of the front and side elevations of all proposed structures. The applicant may be required to furnish such additional information or supporting detail as may be reasonably necessary to assure compliance with the standards herein. Upon receipt of an application for infill approval, the following procedures are required:

(1) For proposed new or relocated buildings of 256 square feet or less, other than an accessory dwelling unit, where no horizontal exterior dimension of the building exceeds 16 feet, there shall be no review required under this section of the chapter.

(2) For other requests, notice of the application shall be provided in accordance with Section 39-4.1 and MCLA § 125.3503.

(e) Procedures.

(1) The Department of Community and Neighborhood Services shall review and approve, approve with conditions or deny an application for infill unless it receives a request for Planning Commission review. A request for Planning Commission review shall be filed with the City Clerk with a copy to the Department of Community and Neighborhood Services.

(2) The Department shall make a decision on the application for infill within 21 days, but not sooner than 15 days, after notice is given. This time may be extended upon mutual agreement of the applicant and the City. In the absence of a decision within the specified time period, as may be extended, an application shall be denied without prejudice.

(3) At the initiative of the Department of Community and Neighborhood Services or upon the request of the Planning Commission, applicant, a real property owner whose real property is assessed within 300 feet of the property, or the occupant of a structure located within 300 feet of the property, a public hearing shall be held by the Planning Commission.

(f) Appeal. Any person aggrieved by the determination of an application for infill by the Department may appeal the decision within 10 days, in writing, to the Planning Commission. An appeal shall be filed with the City Clerk with a copy to the

Department of Community and Neighborhood Services. An appeal shall stay all further proceedings and shall be heard by the Commission at its next regularly scheduled meeting, at which time the Commission shall sustain or modify the determination of the Department. Any appeal of a determination by the Commission may be taken to a court of competent jurisdiction.

(g) Standards. Since each infill development is unique to its immediate context, it is essential that standards be applied with due consideration to the placement, height, scale, proportion, direction emphasis, design details, texture, and materials of new or moved dwellings; new or moved accessory buildings; new nonresidential buildings, additions to nonresidential buildings; and the enclosure of existing open front porches or an accessory dwelling unit in a manner compatible with established dwellings in the immediate vicinity of the proposed development.

(1) Placement. No new or moved building shall be located any closer or any farther away from a street property line than the building situated on either side thereof. Building separation shall be consistent with the general character of the neighborhood which, unless otherwise defined, shall be deemed to be the prevailing character of buildings within 300 feet in either direction along street frontages, irrespective of intervening streets. Unless otherwise characteristic of a neighborhood, dwellings shall be oriented with the front facade and primary entrance facing a street. Garages and accessory dwelling units shall be located consistent with the character of garage location in the neighborhood, and any lot located on an alley and situated between dwellings that have vehicular access only to said alley shall be developed with driveway access to the alley only. A review and approval of building placement under this section shall be consistent with other setback regulations and exceptions of this chapter and other building code, fire or safety code, or other setback regulation established outside of this chapter.

(2) Height, scale and proportion. The height of any new or moved building or open front porch enclosure shall be consistent with the character of the neighborhood. Finished floor elevations, height of exposed basement walls, and front yard grade elevations shall be similar to those of adjacent dwellings. Overall height, width, scale and general proportions shall be similar to or consistent with the character of the neighborhood. When lifting the first floor elevation of an existing building or when determining the height of the first floor elevation of a new or expanded or altered building, the height shall be no higher than the average height of the first floor elevations of the residential buildings on each side of the subject property. The height of the first floor elevation shall be measured as the height above the public sidewalk elevation directly in front of the residential structure.

(3) Form, massing and directional emphasis. Where a neighborhood character clearly includes either a horizontal or vertical emphasis, and a discernible consistent building form and mass, any new or moved building or open front porch enclosure shall conform to the established character. Roof style and pitch shall be architecturally consistent with the proposed or moved building and with the prevailing neighborhood character.

(4) Facade, materials and detail. Where neighborhood character includes discernible patterns of detail including, but not limited to, door and window trim, corner boards, cornice details, railings and shutters, any new or moved building and open front porch enclosure shall be compatible with such character. Where prevailing neighborhood character includes open or enclosed front porches, any new or moved house shall include a similar porch; however, this shall not be construed to mean that the enclosure of an open front porch will not be allowed when the prevailing character of the neighborhood includes open front porches. The materials and relative proportions of doors and windows shall be compatible with neighborhood character. Siding width shall conform to neighborhood character. Exposed wood on any new or moved building shall be painted or stained in a manner generally compatible with other buildings on the property and with neighborhood character.

(5) Rear and side yard paving. The amount of paved areas for vehicle access and parking located in rear and side yard areas shall be generally consistent with that of adjoining properties and neighboring properties on the same block. Plans to provide paved areas for vehicles that are determined to be greater in area than the paved areas generally consistent with that of adjoining properties and neighboring properties on the same block may be permitted:

a. In one side yard only covering an area up to 75% of the side yard area or at a minimum paved area width of 10 feet, if landscaping and screening in the form of natural vegetation and/or fencing are provided to buffer and soften the view from neighborhood properties to side yard paving which exceeds a ten-foot-wide paved area in the side yard; and

b. On up to 50% of the rear yard if landscaping and screening in the form of natural vegetation and/or fencing are provided to buffer and soften the view of the side and rear yard paved surfaces from neighborhood properties.

(h) Interpretation. This section of the Code may be interpreted and augmented from time to time by the adoption of rules and regulations in the manner provided by Section 1-7 of this Code.

Sec. 39-199. Central Park Neighborhood special exception.[13] [Added 1-16-2013 by Ord. No. 1600]

(a) Intent. The intent of this section is to protect the existing residential cottage character of the Central Park Neighborhood area from residential and nonresidential development that is deemed to be detrimental in character to the existing neighborhood. The Central Park Neighborhood area is that area bounded by East End Drive, West End Drive, South Shore Drive and Lake Macatawa, together with those properties with frontage on the west side of West End Drive.

13. Editor's Note: Former Section 39-199, a moratorium on housing demolition, construction and conversion, adopted 7-20-2011 by Ord. No. 1568, and amended 12-21-2011 by Ord. No. 1575, was repealed 1-18-2012 by Ord. No. 1578.

(b) Findings and purpose.

(1) The combination of small lot sizes, the distinctive cottage character, the narrow streets and rights-of-way and the compact geography of the neighborhood create an historic residential neighborhood that is relatively fragile in nature. New residential and nonresidential structures as well as additions to the same if not done in a careful manner that respects and does not diminish the character of adjoining properties and the entire neighborhood should be discouraged.

(2) Because the scale and size of development projects many times have a direct correlation to the establishment of negative impacts on adjoining properties, if not done carefully, this section establishes a special exception procedure requiring review of all new proposed residential and nonresidential structures that are greater than 2,500 square feet in size, excluding basements, and all proposed additions to existing residential and nonresidential structures that will create a structure that is greater than 2,500 square feet in size, excluding basements.

(c) Special exception required; procedures and review standards.

(1) The construction and expansion of residential and nonresidential structures in the Central Park Neighborhood area is allowed only if approved by the Zoning Board of Appeals as a special exception. The following structures are exempt from this section:

a. New structures that are less than 2,500 square feet;

b. Notwithstanding Subsection (c)(1)(a) of this section, a new structure greater than 256 square feet but less than 2,500 square feet shall require a special exception and not be exempt if there are additional structures on lot or contiguous lots under common ownership or control that, with the new structure, total more than 2,500 square feet.

c. Expansions that result in a structure that is less than 2,500 square feet;

d. Structures that are subject to site plan review under Article II of this Chapter 39;

(2) In addition to supplying the information required by the Zoning Board of Appeals general application, the applicant shall submit photos, drawings and elevation plans that specifically describe and delineate the new or expanded structure and all related improvements.

(3) Nonresidential building and site review standards.

a. A special exception for a nonresidential structure shall be granted only if the Zoning Board of Appeals determines that:

1. The applicant has established that the proposed structure or expanded structure (including any seasonal, temporary or accessory structures), and uses associated with such structures, will not adversely affect adjacent and adjoining properties with respect to the emission and transmission of noise, smoke, dust, dirt, litter, odor, vibration, light glare, traffic congestion, ease of routine and emergency services,

drainage, erosion, light and ventilation, surface and groundwater quality, overcrowding of persons, sanitation, property values, general appearance and character, and other similar considerations.

2. The project will comply with the site design, landscaping, setback, buffering and lighting of off-street parking area requirements described in Sections 39-53, 39-54 and 39-54.1(a).

3. The City Engineer has approved drainage plans for the proposed structure or expansion.

4. The project has been approved under the infill review process pursuant to Section 39-198.

5. The applicant has provided sufficient off-street parking for the proposed uses of the property.

b. The Zoning Board of Appeals may approve the special exception subject to such additional conditions or restrictions as it deems necessary to assure compatibility with adjoining or nearby residential property, or to protect the health, safety, and general welfare of the neighborhood and community, including, but not limited to, the maximum number of vehicles allowed on-site.

(4) Residential building and site review standards: A special exception for a residential structure shall be granted only if the Zoning Board of Appeals determines that:

a. The project has been approved under the infill review process pursuant to Section 39-198.

b. The applicant establishes that the project will not adversely affect the adjoining properties and surrounding neighborhood.

c. The Zoning Board of Appeals may approve the special exception subject to such additional conditions or restrictions as it deems necessary to assure compatibility with adjoining or nearby residential property, or to protect the health, safety, and general welfare of the neighborhood and community.

Sec. 39-200. Pilot program - nonowner-occupied short-term rental in R-TRN, R-1, and R-2 Zone Districts. [Added 4-18-2018 by Ord. No. 1735]

(a) This pilot program is established to:

(1) Study the proper regulation of nonowner-occupied short-term rentals in residential zone districts;

(2) Determine what impact these short-term rental units have on neighborhoods; and

(3) Assess how these short-term rentals contribute to the local economy.

(b) Nonowner-occupied short-term rentals shall be allowed in R-TRN, R-1, and R-2 Zone Districts during the two-year pilot program with the following regulations:

(1) There shall be a maximum of 25 short-term rental units total within the R-TRN, R-1, and R-2 zone districts.

(2) There shall be a 500-foot separation distance between each nonowner-occupied short-term rental unit within the R-TRN, R-1, and R-2 zone districts.

(3) Compliance with the regulations of Chapter 14, Housing, shall be met, inclusive of Division 12 that specifies pilot program regulations.

(4) If the pilot program is not renewed or incorporated into the ordinance, the short-term rental shall not continue.

Sec. 39-201. through Sec. 39-209. (Reserved)

DIVISION 2
R-1 One-Family Residential District

Sec. 39-210. Permitted uses. [Ord. No. 464, § 9-1.15; Ord. No. 601; Ord. No. 609; Ord. No. 617; Ord. No. 936, 1-6-1988; Ord. No. 1188, 2-19-1997; Ord. No. 1366, § 3, 8-20-2003; Ord. No. 1415, § 5, 6-1-2005; Ord. No. 1460, 9-6-2006]

The R-1 One-Family Residential District is intended primarily for single-family residential use, but also allows church, school and public uses. The following uses are permitted therein:

(a) One single-family residence on each lot used as a single dwelling unit. In addition, no more than a total of two roomers and boarders are permitted when approved as a special exception under Section 39-407.

(b) Church uses and other places of worship.

(c) Public and private preschool, K-12, and community education-type school uses.

(d) Municipal administrative and municipal service uses.

(e) Municipal parks, municipal recreation areas, municipal community centers and gardens.

(f) Gardening or other farming, excluding the keeping of animals or fowl contrary to the provisions of Section 4-1.

(g) Public library, public museum, and public art gallery.

(h) Accessory uses that are customarily incidental to any principal use permitted by Subsections (a) through (g) of this section; provided, however, that such uses are in conjunction with an existing permitted principal use on the premises; and provided further, that such accessory uses shall not constitute, create or increase a nuisance in fact which adversely affects a legal use of adjoining or nearby premises. Such accessory uses shall include home occupations and home businesses as defined and limited in Section 39-2 and regulated in Section 39-192, and signs as specified in Article IX of this Code.

(i) Family day care home. A private family home in which not more than six minor children are received for care and supervision for periods of less than 24 hours a day, unattended by a parent or legal guardian. This home must comply with the provisions of Act No. 116 of the Public Acts of 1973, as amended, and the regulations adopted pursuant to said Act.[14]

Sec. 39-211. Child care; family day care home; group day care home. [Ord. No. 1013, 7-10-1991; Ord. No. 1188, 2-19-1997]

(a) Definitions.

(1) FAMILY DAY CARE HOME — A private home in which one but less than seven minor children are received for care and supervision for periods of less than 24 hours a day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. Family day care home includes a home that gives care to an unrelated minor child for more than four weeks during a calendar year.

(2) GROUP DAY CARE HOME — A private home in which more than six but not more than 12 minor children are received for care and supervision for periods of less than 24 hours a day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. Group day care home includes a home that gives care to an unrelated minor child for more than four weeks during a calendar year.

(b) Family day care home; permitted. A family day care home shall be permitted in all residential zone districts as long as the applicant shall comply with the provisions of Act No. 116 of the Public Acts of 1973, as amended. (MCLA § 722.111 et seq.).

(c) Family and group day care; registration. In addition to compliance with Act 116, it shall be the responsibility of any licensed provider of day care, whether as a family or group day care home, to register the use and location of such home with the "911" central dispatch office within 30 days after the issuance of a license, provided that this requirement may be satisfied by the periodic registering of all licensed day care facilities on behalf of the individual licensees by the State Department of Social Services, Four C's, or other agency that may be qualified to provide and maintain current such information.

(d) Group day care; allowable as special exception. The use, conversion, or expansion of an existing residence or a family day care home to a group day care home may be permitted in all residential zone districts as a special exception use, subject to a public hearing before the Zoning Board, and findings of compliance with the following standards:

(1) An applicant seeking permission to operate a group day care home shall file an application, in a form approved by the Zoning Board, with the City Clerk, and shall pay the fee as prescribed for a special exception use. A public hearing shall be conducted by the Zoning Board and notice mailed to interested parties in

14. Editor's Note: See MCLA § 722.111 et seq.

accordance with Section 39-409 of this chapter and applicable provisions of state law.

(2) The applicant shall file with the application for a special exception use a sketch site plan, sufficient in scale and detail to indicate all of the following:

a. The overall shape and size of the parcel;

b. A sketch floor plan of floors and rooms proposed for use in the day care operations;

c. Location of drives and parking areas serving the premises;

d. Location of all outside play areas to be used in the day care program, and identification of any portion of the exterior premises which will be specifically excluded from use or access by day care activities;

e. Location and heights of any walls, fences, or landscape barriers, including location of gates and types of construction material.

(3) The Zoning Board may grant a special exception permitting the use of the residence as a group day care home if it finds, based upon the evidence submitted by the applicant and at the public hearing, that all of the following exist:

a. The applicant and premises comply or will comply with Act 116 of the Public Acts of 1973, as amended,[15] prior to the commencement of operations.

b. The group day care home shall be located on a site with at least 5,000 square feet of gross lot area and the proposed site must contain not less than 100 feet per child of usable out-of-doors play area. For purposes of this section, usable out-of-doors play area shall be defined as the area located on the lot behind the established front yard setback of the home which is available or devoted to outdoor activities, exclusive of any area occupied by a swimming pool. The area shall be free from sharp gravel, glass, or cinder, and shall be well drained.

c. The access drive for the group day care home shall not be a joint or shared driveway unless the applicant shall file the written consent of the abutting property owner.

d. The proposed group day care home shall be inspected for compliance with the Housing Property Maintenance Code of the City. Additional code inspection may be required as is necessary to determine compliance with regulations that are now or may be determined to be specifically applicable to group day care, and for which the City is determined to be the enforcing agency.

e. The proposed use of the residence for group day care shall not change the essential character of the surrounding residential area, and shall not create a nuisance in fact or law relating to vehicular parking, noise, additional

15. Editor's Note: See MCLA § 722.111 et seq.

congestion, or density in excess of residential uses of the property in the zone district.

f. The grant of the special exception shall not impair the health, safety, welfare, or reasonable enjoyment of adjacent or nearby residential properties.

Sec. 39-212. Prohibited uses. [Ord. No. 464, § 9-1.15; Ord. No. 1188, 2-19-1997]

Within any R-1 District, no building, structure or premises shall be used and no building or structure shall be erected or altered which is intended or designed to be used in whole or in part for any use not permitted by Section 39-210.

Sec. 39-213. Off-street parking. [Ord. No. 464, § 9-1.15; Ord. No. 1188, 2-19-1997]

Off-street parking shall be provided in R-1 Districts in accordance with the requirements of Sections 39-45 to 39-59.

Sec. 39-214. Height and area regulations. [Ord. No. 464, § 9-1.15; Ord. No. 778; Ord. No. 1188, 2-19-1997; Ord. No. 1232, 12-16-1998]

The following height and area regulations shall apply within R-1 Districts:

(a) Height. No building shall exceed a maximum of 35 feet in height.

(b) Front yard. There shall be a front yard of not less than 30 feet from the street line.

(c) Side yard. For single-family dwellings there shall be two side yards totaling at least 18 feet, and no side yard shall be less than seven feet; provided, that where a side lot line adjoins a side street, a minimum yard of 20 feet is required. For all other buildings, minimum side yards of 20 feet on each side are required.

(d) Rear yard. There shall be a rear yard of at least 25 feet.

(e) Lot area and width. There shall be a lot area of at least 8,400 square feet, and a minimum lot width along the front building line of 70 feet.

(f) Exceptions. For height and area exceptions, see also Section 39-185.

Sec. 39-215. (Reserved)[16]

Sec. 39-216. through Sec. 39-219. (Reserved)

16. Editor's Note: Former Section 39-215, adopted by Ord. No. 464, as amended by Ord. No. 609, Ord. No. 723, 2-19-1997 by Ord. No. 1188, 9-15-1999 by Ord. No. 1262 and 9-19-2001 by Ord. No. 1315, was repealed 8-20-2003 by Ord. No. 1366.

DIVISION 3

R-2 One- and Two-Family Residential District

Sec. 39-220. Permitted uses. [Ord. No. 464, § 9-1.16; Ord. No. 601; Ord. No. 609; Ord. No. 1185; Ord. No. 1188, 2-19-1997; Ord. No. 1366, § 4, 8-20-2003]

The R-2 One- and Two-family Residential District allows two-family dwellings and certain other residential uses in addition to the uses permitted in the R-1 District. The following uses are permitted:

(a) The uses permitted by Section 39-210.

(b) A single residential building containing not more than two dwelling units on each lot. In addition, no more than a total of two roomers and boarders are permitted within the single residential building when approved as a special exception under Section 39-407.

(c) Accessory uses that are customarily incidental to any principal use permitted by Subsections (a) and (b) of this section; provided, however, that such uses are in conjunction with an existing permitted principal use on the premises; and provided further, that such accessory uses shall not constitute, create or increase a nuisance in fact which adversely affects a legal use of adjoining or nearby premises. Such accessory uses shall include home occupations and home businesses as defined in Section 39-2 and regulated in Section 39-192, and signs as specified in Article IX of this Code.

Sec. 39-221. Prohibited uses. [Ord. No. 464, § 9-1.16; Ord. No. 1188, 2-19-1997]

Within any R-2 District, no building, structure or premises shall be used and no building or structure shall be erected or altered which is intended or designed to be used in whole or in part for any use not permitted by Section 39-220.

Sec. 39-222. Off-street parking. [Ord. No. 464, § 9-1.16; Ord. No. 1188, 2-19-1997]

Off-street parking shall be provided in R-2 Districts in accordance with the requirements of Sections 39-45 to 39-59.

Sec. 39-223. Height and area regulations. [Ord. No. 464, § 9-1.16; Ord. No. 778; Ord. No. 1188, 2-19-1997; Ord. No. 1232, 12-16-1998]

The following height and area regulations shall apply in R-2 Districts:

(a) Height. No building shall exceed a maximum of 35 feet in height.

(b) Front yard. There shall be a front yard of not less than 25 feet from the street line.

(c) Side yard. For one- and two-family residences there shall be two side yards totaling at least 15 feet, and no side yard shall be less than six feet; provided, that where a side yard adjoins a side street, a minimum yard of 16 feet is required. For all other building, minimize side yards of 20 feet on each side are required.

(d) Rear yard. There shall be a rear yard of at least 25 feet.

(e) Lot area and width. There shall be a lot area of at least 7,200 square feet for each new single-family dwelling hereafter erected, and a minimum lot width along the front building line of 60 feet. Two-family dwellings may be erected with a lot area of at least 4,800 square feet per family, and a minimum lot width along the front building line of 80 feet.

(f) Exceptions. For height and area exceptions, see also Section 39-185.

Sec. 39-224. Conversions. [Ord. No. 464, § 9-1.14; Ord. No. 1188, 2-19-1997]

Conversion of existing single-family homes from one-family to two-family use is permitted in R-2 Districts with a lot area of at least 4,800 square feet for each family, and a minimum lot width along the front building line of 80 feet. In addition, a conversion must be approved by the Zoning Board pursuant to Section 39-189.

Sec. 39-225. (Reserved)[17]

Sec. 39-226. through Sec. 39-229. (Reserved)

DIVISION 4

R-3 Residential District

Sec. 39-230. Permitted uses. [Ord. No. 464, § 9-1.17; Ord. No. 601; Ord. No. 609; Ord. No. 617; Ord. No. 636; Ord. No. 937, 1-6-1988; Ord. No. 1366, § 5, 8-20-2003; 3-7-2018 by Ord. No. 1727]

The R-3 Residential District allows certain residential uses in addition to those permitted in the R-1 and R-2 Districts. The following uses are permitted in this district:

(a) The uses permitted by Section 39-220, except that family day-care homes located within structures enclosing two or more dwellings sharing a common entrance and hallway shall be an exceptional use subject to the conditions set forth in Section 221. Further, those family day-care homes licensed as of the effective date of this ordinance (January 27, 1988) are permitted uses.

(b) A building for the boarding or lodging, or both, of not more than five persons in the building in addition to family members when approved as a special exception under Section 39-407.

(c) Convalescent or nursing home; nursery school.

(d) Hospital, provided that the building occupies not more than 30% of the lot area and is located at least 50 feet from each lot and street line.

17. Editor's Note: Former Section 39-225, which pertained to exceptional uses in R-2 Districts, adopted by Ord. No. 575, as amended 2-19-1997 by Ord. No. 1188, was repealed 10-15-2003 by Ord. No. 1371.

(e) Group dwellings as limited by Section 39-235.

(f) Adult foster-care facilities and residential facilities for the care, treatment, counseling or rehabilitation of persons with physical, mental or social-emotional disorders, subject to the following conditions:

(1) All laws of the City regarding occupancy and maintenance of residential premises shall be complied with. In addition, any such residential facility which is subject to state or other governmental licensing shall comply with requirements set forth for such licensing.

(2) Any residence so used shall have a gross floor area, exclusive of unfinished basement or attic, of at least 200 square feet per occupant, and a lot area of at least 1,000 square feet per occupant.

(3) Improved off-street parking shall be provided in sufficient amount to accommodate all vehicles belonging to, or available for the use of, occupants, but in no case less than one space for every two occupants.

(4) The establishment and operation of any such residential care facility shall be subject to approval and licensing of an individual or organization as set forth in Chapter 26, which individual or organization shall be directly responsible for the care and maintenance of the residence.

(g) Accessory uses that are customarily incidental to any principal use permitted by Subsections (a) through (f) of this section to the extent that such accessory uses do not constitute, create or increase a nuisance in fact which adversely affects a legal use of adjoining or nearby premises. Such accessory uses shall include home occupations and home businesses as defined in Section 39-2 and regulated in Section 39-192, and signs as specified in Article IX of this chapter.

Sec. 39-231. Prohibited uses. [Ord. No. 464, § 9-1.17; Ord. No. 1188, 2-19-1997]

Within any R-3 District, no building, structure or premises shall be used and no building or structure shall be erected or altered which is intended or designed to be used in whole or in part for any use not permitted by Section 39-230.

Sec. 39-232. Off-street parking. [Ord. No. 464, § 9-1.17; Ord. No. 1188, 2-19-1997]

Off-street parking shall be provided in R-3 Districts in accordance with the requirements of Sections 39-45 to 39-59.

Sec. 39-233. Height and area regulations. [Ord. No. 464, § 9-1.17; Ord. No. 778; Ord. No. 967, 11-2-1988; Ord. No. 1188, 2-19-1997; Ord. No. 1232, 12-16-1998]

The following height and area regulations shall apply in R-3 Districts:

(a) Height. No building shall exceed a maximum of 45 feet in height.

(b) Front yard. There shall be a front yard of not less than 25 feet from the street line.

(c) Side yard. For one- and two-family residences, rooming houses and conversions there shall be two side yards totaling at least 13 feet, and no side yard shall be less than five feet; provided, that where a side yard adjoins a side street a minimum side yard of 12 feet is required. For all other buildings, minimum side yards of 20 feet on each side are required.

(d) Rear yard. There shall be a rear yard of at least 25 feet.

(e) Lot area and width. There shall be a lot area of at least 5,000 square feet for each new single-family dwelling hereafter erected, and a minimum lot width along the front building line of 50 feet. Two-family or group buildings may be erected with a minimum lot area of at least 4,200 square feet for each dwelling unit, and a minimum lot width along the front building line of a two-family or group dwelling of 60 feet.

(f) Exceptions. For height and area exceptions, see also Section 39-185.

Sec. 39-234. Conversion of buildings. [Ord. No. 464, § 9-1.17; Ord. No. 1188, 2-19-1997]

In R-3 Districts, conversions of existing buildings into additional dwelling units are not permitted on lots having a width along the front building line of less than 60 feet.

Conversion of existing dwellings into not more than four dwelling units is permitted with a minimum lot area of at least 3,000 square feet per dwelling unit. In addition, a conversion must be approved by the Zoning Board pursuant to Section 39-189.

Sec. 39-235. Group dwellings. [Ord. No. 464, § 9-1.17; Ord. No. 1188, 2-19-1997]

In R-3 Districts, the erection of two or more residential buildings upon a plot in common ownership is permitted, when such dwelling groups conform to all provisions of this division, even though the location of the buildings to be erected and the front, side and rear yard spaces do not conform in all respects to the requirements stipulated in other parts of this chapter for a single building on a single lot; provided, that the proposed dwelling group shall meet all the following conditions and requirements:

(a) The lot area requirements of the zone district shall be met.

(b) Every dwelling in such dwelling group shall front either on a street or other permanent public open space, common yard or outer court at least 50 feet wide, and no building may be built in the front or rear yard space that would be required for a single building on a single lot.

(c) The distance between buildings or between any building and the nearest lot line shall not be less than the height of the building, nor less than 20 feet in any case.

(d) No building length may exceed its width by more than six times.

(e) Every dwelling in such dwelling group shall be within 500 feet of a public street.

(f) Off-street parking facilities shall be provided in accordance with the requirements of Sections 39-45 to 39-59, and such parking facilities may be provided in the required side or rear yards.

Sec. 39-236. (Reserved)[18]

Sec. 39-237. Exceptional uses—Offices. [Ord. No. 670; Ord. No. 1153, 9-20-1995; Ord. No. 1188, 2-19-1997; Ord. No. 1371, § 3, 10-15-2003]

Upon application and a public hearing thereon, the Zoning Board of Appeals may permit an office use of premises, subject to the following limitations:

(a) The property shall be located on 16th Street east of Waverly Road.

(b) Any building then or thereafter located thereon shall conform to the residential character of the neighborhood.

(c) No part of the principal building shall be more than 125 feet from 16th Street, nor shall any new principal building be placed closer than 30 feet to the next adjoining residentially zoned property on which an office use is not permitted by this division.

(d) Uses accessory to such principal use shall not extend more than 200 feet from the 16th Street right-of-way line.

(e) All height, area and sign requirements, and required conditions of the R-3 Residential District shall be met, except that the Zoning Board may reduce side yard requirements as to any side yard adjoining premises on which an office use is permitted by this division.

(f) Such other reasonable conditions and limitations as may be imposed by the Zoning Board to protect nearby residential premises.

Sec. 39-238. Family day-care homes. [Ord. No. 938, 1-6-1988; Ord. No. 1188, 2-19-1997]

Family day care homes (as defined in Section 39-211) shall be permitted following public hearing by the Zoning Board determining that such use will not be detrimental to adjoining properties or the neighborhood with respect to:

(a) Density of similar uses;

(b) Characteristics of the neighborhood;

(c) Vehicular and pedestrian traffic and parking.

Sec. 39-239. through Sec. 39-249. (Reserved)

18. Editor's Note: Former Section 39-236, which pertained to exceptional uses in R-3 Districts, adopted by Ord. No. 576, as amended 2-19-1997 by Ord. No. 1188, was repealed 10-15-2003 by Ord. No. 1371.

DIVISION 5

R-4 Mobile Home Development and Residential District

Sec. 39-250. Permitted uses. [Ord. No. 626; Ord. No. 1188, 2-19-1997]

The R-4 District allows mobile home developments and other residential uses. The following uses are permitted:

(a) The uses permitted by Section 39-230.

(b) Mobile home developments in accordance with the provisions of this division, including any accessory structures and uses customarily incident to such developments.

Sec. 39-251. Definitions. [Ord. No. 626; Ord. No. 1188, 2-19-1997]

For the purposes of this division, the following words and phrases shall have the meanings respectively ascribed to them by this section:

(a) ACCESSORY STRUCTURE — A structural addition to a mobile home, including awnings, cabanas, carports, patios, Florida rooms, porches, ramadas, storage cabinets and other similar structures.

(b) COMMON AREA — Any area or space designed and intended for common use by tenants and residents of mobile home developments.

(c) MOBILE HOME — A manufactured, relocatable residential unit providing complete, independent living facilities for one family, including permanent provisions for living, sleeping, eating, cooking and sanitation.

(d) MOBILE HOME DEVELOPMENT — A parcel of land which has been designed, planned and improved for the placement of mobile homes.

(e) MOBILE HOME LOT — A parcel of land within a mobile home development designed, planned and improved for the placement of a mobile home and for the exclusive use of its occupants.

(f) MOBILE HOME STAND — That part of a mobile home lot designed, planned and improved for the specific placement of a mobile home.

Sec. 39-252. Development requirements. [Ord. No. 626; Ord. No. 1188, 2-19-1997; 3-7-2018 by Ord. No. 1727]

The following requirements shall apply to mobile home developments:

(a) The minimum land area for a mobile home development shall be 10 acres and there shall be no less than 50 mobile home lots per development.

(b) Not less than 5% of the land area of a mobile home development shall be devoted to recreational areas for common tenant use. Recreation areas may include space for pedestrian greenbelts, playgrounds or play areas, common buildings, such as indoor recreation areas, swimming pools, hobby and repair shops.

(c) No portion of any mobile home stand, mobile home or accessory structure shall be located closer than 25 feet to any property line of the mobile home development or shall be located closer than 10 feet to any other mobile home lot or street.

(d) Any portion of a mobile home development located adjacent to industrial or commercially zoned property shall be fenced or screened to at least six feet in height.

(e) The maximum density of mobile home lots and of mobile homes in a mobile home development shall not exceed 10 lots or mobile homes per acre.

(f) Mobile home development signs shall comply with the provisions of Section 39-355 of this Code.

(g) No portion of any recreational, utility, service or administrative building shall be closer than 20 feet to any exterior property line, nor closer than 10 feet to any mobile home lot.

Sec. 39-253. Streets and parking. [Ord. No. 626; Ord. No. 1188, 2-19-1997]

The following requirements regarding streets and parking shall apply to mobile home developments:

(a) Where off-street parking is provided on individual mobile home lots, such mobile home lots shall be provided with paved vehicular access connecting the lot to an improved street with the development.

(b) Primary streets within a development which provide direct access to a public street shall be paved and drained in accordance with street improvement standards applicable to public streets.

(c) Parking shall be provided for at least two improved parking spaces for each mobile home lot. Such parking may be provided by curbside parking, parking lots or a combination thereof.

(d) Internal circulatory streets within a development shall be curbed and drained and shall comply with the following width standards:

(1) Circulatory streets with parking both sides: 36 feet.

(2) Circulatory streets with parking one side: 32 feet.

(3) Circulatory streets with no parking: 28 feet.

(e) Courts, culs-de-sac and other limited thoroughfare streets within a development serving not more than 12 mobile home lots shall be provided with an improved surface and be not less than 20 feet in width.

(f) Except for streets within a development which are publicly dedicated, the responsibility for street maintenance shall be that of the development management and shall be adequate to assure access by police, fire and other emergency and surveillance vehicles at all times.

Sec. 39-254. Mobile home lots, facilities and installation. [Ord. No. 626; Ord. No. 1188, 2-19-1997]

(a) Any mobile home installed in a mobile home development shall comply with the construction standards of all state and local authorities applicable to the construction of mobile homes. In addition, every mobile home installed in the City shall comply with the current standards of the American National Standards Institute for the construction and safety of mobile homes.

(b) Every mobile home stand shall be provided with supporting concrete piers or a concrete surface and a minimum of eight tie-down anchors suitable to prevent uplift or overturning, and capable of withstanding a withdrawal force of 4,800 pounds without failure.

(c) Every mobile home lot shall be provided with municipal water and sewer service and with electrical and telephone connectors. Any utility service, including fuel supply, shall be installed underground.

(d) Every mobile home shall be fully skirted within 30 days of installation on the mobile home stand.

(e) No mobile home shall be occupied within a development unless located on a mobile home stand and until all provisions of this division have been complied with.

Sec. 39-255. Additional requirements. [Ord. No. 626; Ord. No. 1188, 2-19-1997; 3-7-2018 by Ord. No. 1727]

The requirements of Act 96 of 1987, The Mobile Home Commission Act, MCLA § 125.2301 et seq., as amended, applicable to trailer parks, are made a part of this division the same as if set out herein, and no certificate of occupancy shall be issued until such requirements have been met. All provisions of this Code, including Chapter 35, which apply to residential property within the City not in conflict herewith shall apply to mobile home developments.

Sec. 39-256. through Sec. 39-264. (Reserved)

DIVISION 6
R-5 Apartment District

Sec. 39-265. Permitted uses. [Ord. No. 464, § 9-1.18; Ord. No. 601; Ord. No. 609; Ord. No. 617; Ord. No. 636; Ord. No. 1188, 2-19-1997; Ord. No. 1366, § 6, 8-20-2003]

R-5 Apartment District allows more intensive residential use and certain regulated office uses in addition to all uses permitted in the R-3 Residential District. The following uses are permitted:

(a) The uses permitted by Section 39-230.

(b) Multiple dwelling units.

(c) Rooming and boarding houses, and fraternities and sororities, when approved as a special exception under Section 39-407.

(d) Hospital; provided, that the building occupies not more than 40% of the lot area and is located at least 40 feet from each lot and street line.

(e) Adult foster care facilities and residential facilities for the care, treatment or rehabilitation of persons with physical, mental or social-emotional disorders, in accordance with the conditions set forth in Section 39-230(a) through (d).

(f) Accessory uses that are customarily incidental to any principal use permitted by Subsections (a) through (e) of this section to the extent that such accessory uses do not constitute, create or increase a nuisance in fact which adversely affects a legal use of adjoining or nearby premises. Such accessory uses shall include home occupations and home businesses as defined in Section 39-2 and regulated in Section 39-192, and signs as specified in Article IX of this Code.

Sec. 39-266. Prohibited uses. [Ord. No. 464, § 9-1.18; Ord. No. 1188, 2-19-1997]

Within any R-5 District, no building, structure or premises shall be used and no building or structure shall be erected or altered which is intended or designed to be used in whole or in part for any use not permitted by Section 39-265.

Sec. 39-267. Off-street parking. [Ord. No. 464, § 9-1.18; Ord. No. 1188, 2-19-1997]

Off-street parking shall be provided in R-5 Districts in accordance with the requirements of Sections 39-45 to 39-59.

Sec. 39-268. Height and area regulations. [Ord. No. 464, § 9-1.18; Ord. No. 685; Ord. No. 778; Ord. No. 967, 11-2-1988; Ord. No. 1188, 2-19-1997; Ord. No. 1232, 12-16-1998]

The following height and area regulations shall apply in R-5 Districts:

(a) Height. No building shall exceed a maximum of 45 feet in height.

(b) Front yard. There shall be a front yard of not less than 25 feet from the street line.

(c) Side yard. For one- and two-family residences, rooming houses and conversions, there shall be two side yards totaling at least 13 feet, and no side yard shall be less than five feet; provided, that where a side yard adjoins a side street, a minimum side yard of 12 feet is required. For all other buildings, minimum side yards of 20 feet on each side are required.

(d) Rear yard. There shall be a rear yard of at least 25 feet.

(e) Lot area and width. Each new single-family dwelling hereafter erected shall have a lot area of at least 5,000 square feet, and a minimum lot width along the front building line of 50 feet. Each new building hereafter erected to house two dwelling units shall have a lot area of at least 3,500 square feet per dwelling unit, and minimum lot width along the front building line of 60 feet. Each new building hereafter erected to house three or

more dwelling units shall have a lot area of 3,000 square feet for each dwelling unit and a minimum lot width along the front building line of 60 feet.

(f) Exceptions. For height and area exceptions, see also Section 39-185.

Sec. 39-269. Conversions. [Ord. No. 464, § 9-1.18; Ord. No. 1188, 2-19-1997]

Existing buildings in R-5 Districts may be converted into additional dwelling units; provided, that the following requirements are met: Two dwelling units shall have a lot area of not less than 5,000 square feet, and a minimum lot width along the front building line of 50 feet. Each additional dwelling unit shall have an additional 2,000 square feet of lot area. No converted building shall contain more than four dwelling units. In addition, a conversion must be approved by the Zoning Board pursuant to Section 39-189.

Sec. 39-270. (Reserved)[19]

Sec. 39-271. through Sec. 39-274. (Reserved)

DIVISION 7

R-6 Central Apartment District

Sec. 39-275. Permitted uses. [Ord. No. 552; Ord. No. 609; Ord. No. 617; Ord. No. 636; Ord. No. 1188, 2-19-1997; Ord. No. 1366, § 7, 8-20-2003]

The R-6 Central Apartment District allows more intensive residential use and certain regulated office uses in addition to all uses permitted in the R-5 Residential District. The following uses are permitted:

(a) The uses permitted by Section 39-230.

(b) Multiple dwelling units.

(c) (Reserved)

(d) Hospital; provided that the building occupies not more than 40% of the lot area and is located at least 40 feet from each lot and street line.

(e) Adult foster care facilities and residential facilities for the care, treatment or rehabilitation of persons with physical, mental or social-emotional disorders, in accordance with the conditions set forth in Section 39-230(a) through (d).

(f) Accessory uses that are customarily incidental to any principal use permitted by Subsections (a) through (e) of this section to the extent that such accessory uses do not constitute, create or increase a nuisance in fact which adversely affects a legal use of adjoining or nearby premises. Such accessory uses shall include home occupations and

19. Editor's Note: Former Section 39-270, which pertained to exceptional uses; officers in R-5 Districts, adopted by Ord. No. 464, as amended 11-16-1994 by Ord. No. 1130 and 2-19-1997 by Ord. No. 1188, was repealed 10-15-2003 by Ord. No. 1371.

home businesses as defined in Section 39-2 and regulated in Section 39-192, and signs as specified in Article IX of this Code.

Sec. 39-276. Prohibited uses. [Ord. No. 552; Ord. No. 1188, 2-19-1997]

Within any R-6 District, no building, structure or premises shall be used and no building or structure shall be erected or altered which is intended or designated to be used in whole or in part for any use not permitted by Section 39-275.

Sec. 39-277. Off-street parking. [Ord. No. 552; Ord. No. 1188, 2-19-1997]

Off-street parking shall be provided in R-6 Districts in accordance with the requirements of Sections 39-45 to 39-59; provided, however, that required off-street parking for apartment dwelling units shall be not less than 1.5 spaces per unit.

Sec. 39-278. Height and area regulations. [Ord. No. 552; Ord. No. 685; Ord. No. 778; Ord. No. 967, 11-2-1988; Ord. No. 1188, 2-19-1997; Ord. No. 1232, 12-16-1998]

The following height and area regulations shall apply in R-6 Districts:

(a) Height. No building shall exceed a maximum of 45 feet in height.

(b) Front yard. There shall be a front yard of not less than 25 feet from the street line.

(c) Side yard. For one- and two-family residences, rooming houses and conversions, there shall be two side yards totaling at least 13 feet, and no side yard shall be less than five feet; provided that, where a side yard adjoins a side street, a minimum side yard of 12 feet is required. For all other buildings, minimum side yards of 20 feet on each side are required.

(d) Rear yard. There shall be a rear yard of at least 25 feet.

(e) Lot area and width. Each new single-family dwelling hereafter erected shall have a lot area of at least 5,000 square feet, and a minimum lot width along the front building line of 50 feet. Each new building hereafter erected to house two dwelling units shall have a lot area of at least 3,500 square feet per dwelling unit, and minimum lot width along the front building line of 60 feet. Each new building hereafter erected to house three or more dwelling units shall have a lot area of 3,000 square feet for each dwelling unit and a minimum lot width along the front building line of 60 feet.

(f) Exceptions. For height and area exceptions, see also Section 39-185.

Sec. 39-279. Conversions. [Ord. No. 552; Ord. No. 1188, 2-19-1997]

Existing buildings in R-6 Districts may be converted into additional dwelling units; provided, that the following requirements are met: Two dwelling units shall have a lot area of not less than 5,000 square feet, and a minimum lot width along the front building line of 50 feet. Each additional dwelling unit shall have an additional 2,000 square feet of lot area. No

converted building shall contain more than four dwelling units. In addition, a conversion must be approved by the Zoning Board pursuant to Section 39-189.

DIVISION 7.1
R-TRN Traditional Residential Neighborhood District

Sec. 39-280. Purpose and intent. [Ord. No. 1415, § 1, 6-1-2005; Ord. No. 1576, 1-18-2012]

(a) This district provides for an urban residential zoning district that is characteristic of the primarily single family residential neighborhoods located in the central area of the City. Some of these neighborhood areas are truly historic in nature and possess a charm and urban form that is not yet duplicated in other areas of the City. This district provides area and height requirements that closely match the status of the existing built conditions. It also provides flexibility that allows the existing urban character to remain through remodeling and redevelopment efforts, and provides flexibility on a performance basis for limited additional densities and mixture of land uses as is characteristic of vibrant urban neighborhoods and places, when it can be demonstrated that potential negative impacts are mitigated and minimized through careful and creative site planning and design.

(b) There exists an area of Holland's Central neighborhoods defined as the Hope Neighborhood Area where historically there has been a balance of long-term owner-occupied homes and transitory short-term student rental homes in the immediate vicinity of Hope College and Western Seminary that has sustained the desire of each population to remain and sustain the neighborhood. This area is now being challenged by significant pressures for change in housing stock and density of activity. Proximity to the college, recent student enrollment increases, and minimal housing growth coupled with increased deterioration in old housing stock have combined to increase pressure to convert (either through conversion or replacement) long-time single-family owner-occupied residential units or properties into short-term transitory student occupancy with the greatest density of occupancy that ordinances will allow.

(1) These changes challenge the desirability and sustainability of this neighborhood as a single-family neighborhood. This has been problematic due to the accompanying high density of individuals often with divergent lifestyles, activity patterns, and schedules; and an atypically high density of automobile possession and use where need is typically to accommodate one vehicle per occupant thereby increasing noise, traffic, paving demands, and loss of green yard space.

(2) Due to the transitory nature of student housing (normally for less than a full twelve-month period), opportunities for developing relationships between short-term occupants and long-term residents are diminished, and the sense of cohesive neighborhood is hard to achieve where there is limited opportunity or effort to establish a sense of belonging to, investing in, and committing to a cohesive neighborhood.

(3) It is the intention of the City to encourage and sustain opportunities for single-family occupancy as a stabilizing force within all areas of this zone district while

acknowledging the opportunities under certain conditions to support quality higher density housing such as housing that accommodates the needs of those major educational institutions that adjoin this zone district.

(4) Preservation and enhancement of the City's neighborhoods for the benefit of all is a significant City objective.

Sec. 39-281. Permitted uses. [Ord. No. 1415, § 1, 6-1-2005; Ord. No. 1576, 1-18-2012]

(a) One single-family residence on each lot used as a single dwelling unit subject to the procedures and review standards of Section 39-198. Additionally, no more than a total of two roomers or boarders are permitted when approved by the Zoning Board of Appeals as a special exception pursuant to Section 39-407.

(b) Two but no more than four dwelling units in a single residential building on an individual lot subject to the procedures and review standards of Section 39-198. Additionally, no more than one roomer or boarder is permitted per dwelling unit when approved by the Zoning Board of Appeals as a special exception pursuant to Section 39-407. This subsection shall not apply to areas of the R-TRN zone district that are within the Hope Neighborhood Area.

(c) Church uses and other places of worship.

(d) Public and private preschool, K-12, and community education type school uses.

(e) Municipal administrative and municipal service uses.

(f) Municipal parks, municipal recreation areas, municipal community centers and gardens.

(g) Public library, public museum, and public art gallery.

(h) Family day care home. A private family home in which not more than six minor children are received for care and supervision for periods of less than 24 hours a day, unattended by a parent or legal guardian. This home must comply with the provisions of Act No. 116 of the Public Acts of 1973, as amended, the regulations adopted pursuant to said act, and the applicable provisions of Section 39-211.

(i) Group day care homes pursuant to the special exception requirements of Section 39-211.

(j) Accessory uses that are customarily incidental to any principal use permitted by Subsections (a) through (g) of this section; provided, however, that such uses are in conjunction with an existing permitted principal use on the premises; and provided further, that such accessory uses shall not constitute, create or increase a nuisance in fact which adversely affects a legal use of adjoining or nearby premises. Such accessory uses shall include home occupations and home businesses as defined and limited in Section 39-2 and regulated in Section 39-192, and signs as specified in Article IX of this chapter.

Sec. 39-282. Conversions. [Ord. No. 1415, § 1, 6-1-2005]

Existing buildings may be converted into additional dwelling units, provided that the following requirements are met:

(a) A conversion must be approved by the Zoning Board of Appeals pursuant to Section 39-189.

(b) Each dwelling unit shall have a minimum lot area of 4,800 square feet and a minimum lot width along the front building line of 60 feet.

(c) Converted buildings shall not contain more than four dwelling units.

(d) Compliance with Section 39-198(d).

Sec. 39-283. Prohibited uses. [Ord. No. 1415, § 1, 6-1-2005]

Within any R-TRN District, no building, structure or premises shall be used and no building or structure shall be erected or altered which is intended or designed to be used in whole or in part for any use not permitted by Sections 39-281 and 39-282.

Sec. 39-284. Off-street parking. [Ord. No. 1415, § 1, 6-1-2005; Ord. No. 1576, 1-18-2012; amended 9-17-2014 by Ord. No. 1637; 10-7-2015 by Ord. No. 1658; 4-20-2016 by Ord. No. 1665; 3-7-2018 by Ord. No. 1726; Ord. No. 1738]

(a) Off-street parking shall be provided in accordance with the requirements of Sections 39-45 through 39-59, and Section 39-198(g)(5) when applicable, except 50% of the required parking for permitted nonresidential and institutional uses are required for this district.

(b) Paving and parking in the Central Neighborhood District overlay area portion of the R-TRN residential district shall be in accordance with Section 39-62 of this chapter.

(c) Bed-and-breakfasts shall have separate parking requirements as stated in Section 39-194(a)(2)d.

Sec. 39-285. Height and area regulations. [Ord. No. 1415, § 1, 6-1-2005]

The following height and area regulations shall apply in R-TRN districts:

(a) Height. No building shall exceed a maximum of 45 feet in height.

(b) Front yard. There shall be a front yard of not less than 10 feet from the street right-of-way line, and in no case shall a front yard be greater than 25 feet from the street right-of-way line.

(c) Side yard.

(1) For all residential buildings, there shall be two side yards totaling at least 13 feet, and no side yard shall be less than five feet; provided, that where a side yard adjoins a side street a minimum side yard of seven feet from the street right-of-

way line is required, and in no case shall a side yard on a side street be greater than 25 feet from the street right-of-way line.

(2) For all other buildings, a minimum side yard of 10 feet on each side is required.

(d) Rear yard. There shall be a rear yard of at least 25 feet.

(e) Lot area and width. There shall be a lot area of at least 5,000 square feet and a minimum lot width along the front building line of 40 feet for each new single-family dwelling, church, school, municipal building and other public and/or private institutional building. For new two-family and multifamily dwelling unit buildings, and conversions of existing buildings into additional dwelling units, a minimum lot area of 4,800 square feet shall be required for each dwelling unit, and a minimum lot width of 60 feet shall be required along the front building line.

(f) Area exceptions. In addition to the height and area exception procedures of Sections 39-10 and 39-185, after due notice and a public hearing pursuant to the noticing requirements for a site plan review, the Planning Commission may approve larger front and side yard setbacks for churches, schools, municipal buildings and other public and/ or private institutional uses either as a singular issue, or as a component of a site plan review, if it determines the following: that such larger building setback is necessary to allow the reasonable improvement of the site, that the larger building setback will not be detrimental to adjacent residential properties, and the larger setback will be compatible with the urban design of the neighborhood.

(g) Accessory buildings. Accessory buildings shall comply with Section 39-185, except the maximum yard restrictions of this district shall not apply.

(h) Additions to existing structures. Additions or alterations to existing buildings, conforming in use, that reduce nonconforming front yards or side yards on a side street shall be permitted without compliance with the maximum yard requirements of this section, but must comply with the minimum yard requirements of this section.

Sec. 39-286. through Sec. 39-299. (Reserved)

DIVISION 8
PRD Planned Residential Development District

Sec. 39-300. Findings and intent. [Ord. No. 786; Ord. No. 1188, 2-19-1997; Ord. No. 1450, 4-26-2006]

There exists in the City properties adjacent to or near established residential subdivisions or properties which by virtue of their proximity to industrial or commercial districts, or major thoroughfares or by virtue of their unusual or challenging environmental or economic conditions have not been developed for individual residences or individual lots. There also may exist in the City properties which have been identified in the City Master Plan for residential developments with mixed densities and housing types on which creative and flexible zoning can present more intensive yet compatible and desired development than the basic by-right zoning found in nonplanned development zones. It is the intent of this division

to allow the residential development of such areas so as to promote flexibility and creativity in design, offer a variety of housing types and styles, encourage the preservation of open space and natural amenities when those features may be integrated into the project design, and encourage the development of publicly and privately owned gathering spaces, while at the same time assuring general compatibility with existing or potential residential development in adjacent areas.

Sec. 39-301. Permitted uses. [Ord. No. 786; Ord. No. 1188, 2-19-1997; Ord. No. 1366, § 11, 8-20-2003; Ord. No. 1387, § 6, 6-2-2004; 3-7-2018 by Ord. No. 1727; Ord. No. 1732]

(a) The following uses are permitted in a PRD District: Cooperative, condominium or apartment residences, single-family dwellings, duplexes, cluster housing, row housing, townhouses, zero-lot-line dwellings, nursing homes, retirement homes and senior citizen housing projects. In addition, all nonresidential uses and accessory uses allowed in the R-1 District (Section 39-210) shall be permitted in accordance with the regulations of such section.

(b) In addition to those nonresidential uses permitted in Section 39-78, the following uses may be permitted in a PRD District upon a finding that they are all architecturally and physically integrated within a development, rather than along the borders thereof, and are intended primarily to serve the needs of residents within the development:

(1) Golf courses, tennis clubs, athletic clubs and fitness centers;

(2) Clinics, dispensaries, therapy or treatment centers;

(3) Convenience, retail sales and services, sidewalk and outdoor cafes pursuant to Chapter 32;

(4) Signs for Subsection (b)(1) through (3) above which are permanently affixed to a building.

(c) Short-term rentals as allowed in Chapter 14 with a certificate of compliance if this use has been approved by the Planning Commission as part of the site plan.

Sec. 39-302. Establishment. [Ord. No. 786; Ord. No. 1188, 2-19-1997]

PRD Districts may be established by initiative of the Planning Commission and the City Council or may be established by application and approval, in accordance with procedures of this Code. In either case, the residential use of any lands, within a PRD District shall be contingent upon the submission and approval of a development plan and the faithful adherence of such development to that plan. The development plan approval of a PRD development shall supersede and be in lieu of any other site plan review process of this chapter. In the case of an application for rezoning to a PRD District, the approval of a zone change and the approval of a development plan shall proceed concurrently. In cases where a PRD District is existing, a development plan shall be approved by the Planning Commission prior to development. In the event of a proposed subdivision within a PRD District, the preliminary plat submitted and approved shall be deemed the development plan, irrespective of other requirements of this chapter. Except for lot size and area requirements, all applicable

provisions of Chapter 33 shall apply to a subdivision within a PRD District. In considering approval or disapproval of a development plan, the standards set forth in Section 39-24 shall be applied.

Sec. 39-303. Review of development plan. [Ord. No. 1188, § 2-19-1997]

All developments in a PRD zone district shall be reviewed in accordance Article II of this chapter.

Sec. 39-304. Compliance with overlay district requirements. [Ord. No. 1298, § 2, 5-23-2001]

The portions of a property that fall within the boundaries of an overlay district per Article VIII, Division 5 of this chapter shall comply with the requirements of the applicable overlay district.

Sec. 39-305. Minimum residential densities. [Ord. No. 1354, § 3, 11-20-2002]

Where the lot is served by, or is otherwise available to, a public sewer system, there shall be a minimum allowable residential density of greater than three dwelling units per acre. Where the lot is not served by, or is not otherwise available to, a public sewer system, there shall be a minimum allowable density of greater than two dwelling units per acre.

Sec. 39-306. through Sec. 39-314. (Reserved)

ARTICLE VIII
Other District Regulations

DIVISION 1
AG Agricultural District

Sec. 39-315. Permitted uses. [Ord. No. 464, § 9-1.19; Ord. No. 601; Ord. No. 1188, 2-19-1997; Ord. No. 1354, § 1, 11-20-2002; 3-7-2018 by Ord. No. 1727]

The AG Agricultural District is intended for agricultural and large lot residential uses. The following uses are permitted therein:

(a) One single-family residence on each lot used as a single dwelling unit. In addition, no more than a total of two roomers and boarders are permitted when approved as a special exception under Section 39-407.

(b) Municipal parks, recreation areas and community centers, provided that any building or structure shall be located at least 50 feet from each lot and street line.

(c) Farming and agricultural uses.

(d) Public or private nonprofit parks, recreation areas and wildlife sanctuaries or preserves.

(e) Family day-care home. A private family home in which not more than six minor children are received for care and supervision for periods of less than 24 hours a day, unattended by a parent or legal guardian. This home must comply with the provisions of Act No. 116 of the Public Acts of 1973, as amended, and the regulations adopted pursuant to said Act.

(f) Accessory uses that are customarily incidental to any principal use permitted by Subsections (a) through (e) of this section to the extent that such accessory uses do not constitute, create or increase a nuisance in fact which adversely affects a legal use of adjoining or nearby premises. Accessory farm uses shall include, but not be limited to, the following:

(1) The sale, on farm premises, of farm products produced thereon if not more than one person not an inhabitant of the principal building is employed in such sales.

(2) The housing of farm employees on the farm where employed, provided that such buildings comply with the requirements of this district with respect to the residential use of land.

(3) The housing of seasonal farm laborers and their families on the farm where employed, subject to Sections 39-317 and 39-318 and the provisions of Act No. 167 of the Public Acts of 1917, as amended.

(4) Home occupations, as defined and limited in Section 39-192, are accessory uses.

Sec. 39-316. Prohibited uses. [Ord. No. 464, § 9-1.19; Ord. No. 1188, 2-19-1997; Ord. No. 1354, § 1, 11-20-2002]

Within any AG District, no building, structure or premises shall be used and no building or structure shall be erected or altered which is intended or designed to be used in whole or in part for any use not permitted by Section 39-315.

Sec. 39-317. Required conditions. [Ord. No. 464, § 9-1.19; Ord. No. 1188, 2-19-1997; Ord. No. 1298, § 2, 5-23-2001; Ord. No. 1354, § 1, 11-20-2002]

The following conditions are required in AG Districts:

(a) Storage of trucks and farm machinery. All trucks and farm machinery either shall be stored within a building or not less than 100 feet from any street or property line.

(b) Off-street parking. Off-street parking shall be provided in accordance with the requirements of Sections 39-45 to 39-59.

(c) Compliance with overlay district requirements. The portions of a property that fall within the boundaries of an overlay district per Article VIII, Division 5 of this chapter shall comply with the requirements of the applicable overlay district.

Sec. 39-318. Height and area regulations. [Ord. No. 464, § 9-1.19; Ord. No. 778; Ord. No. 1188, 2-19-1997; Ord. No. 1354, § 1, 11-20-2002]

The following height and area regulations shall apply in AG Districts:

(a) Height. No building shall exceed a maximum of 45 feet in height.

(b) Front yard. There shall be a front yard of not less than 30 feet from the street line.

(c) Side yard. Each side yard shall be at least 20 in width; provided, that where a side yard adjoins a street the front yard requirements shall apply.

(d) Rear yard. There shall be a rear yard of at least 25 feet.

(e) Lot area and width. Where the lot is served by, or is otherwise available to a public sewer system, single-family residential lots shall have a minimum lot area of 14,000 square feet, and a minimum lot width of 100 feet. Where the lot is not served by, or is not otherwise available to a public sewer system, single-family residential lots shall have a minimum lot area of 21,600 square feet, and a minimum lot width of 120 feet. For all other uses, there shall be a lot area of at least 35,000 square feet, and a minimum lot width along the front building line of at least 165 feet for each principal building.

Sec. 39-319. (Reserved)[20]

Sec. 39-319.1. (Reserved)[21]

DIVISION 2

ED Education District

Sec. 39-320. Intent and permitted uses. [Ord. No. 834; Ord. No. 1188, 2-19-1997; Ord. No. 1576, 1-18-2012]

(a) The ED Education District is established primarily to recognize the widely varied and highly concentrated land uses and activities associated with Hope College and Western Seminary, but may be applied to other public or private school campuses as well, if public purpose is advanced thereby. In designating such districts, it is intended that educational institutions shall enjoy maximum latitude and flexibility in development and utilization of land and facilities, as is consistent with their educational objectives and with preservation of the health, safety and general welfare of the community.

(b) When established as an integrated element of the educational program, a full range of academic, administrative, assembly, residential, recreational and supportive services are permitted, including, but not limited to, the following: Classroom, laboratory, library,

20. Editor's Note: Former Section 39-319, which pertained to exceptional uses regarding motels and professional offices, adopted by Ord. No. 464, as amended by Ord. No. 601 and 2-19-1997 by Ord. No. 1188, was repealed 4-18-2001 by Ord. No. 1295.

21. Editor's Note: Former Section 39-319.1, which pertained to moratorium on development in specified AG Agricultural Districts, adopted 1-17-2001 by Ord. No. 1291, was repealed 6-6-2007 by Ord. No. 1478.

gymnasium, student center, office, store, clinic, gallery, greenhouse, parking areas, chapel, theater, auditorium, dining hall, dormitory, apartment, residence, museum, playing fields and courts, signs, sculpture and monuments. For the purposes of this division, all such buildings or uses which are customary or incidental to an educational function may be referred to as "institutional uses," as distinguishable from privately owned residential premises which may be included within an ED District.

(c) In addition to the foregoing, such installations or uses as may be necessary or incidental to utility or mechanical services, maintenance and operations, and safety and security shall be permitted.

(d) It is understood that properties within this zone district are characterized by the diverse building uses, institutional activities and programs, and student activities and lifestyles, within general oversight by the particular institution.

Sec. 39-321. Height and area regulations. [Ord. No. 834; Ord. No. 1188, 2-19-1997; Ord. No. 1370, 10-15-2003; Ord. No. 1557, 2-2-2011]

The following height and area regulations shall apply within ED Districts:

(a) Height. Educational and related buildings shall not exceed 75 feet in height; provided, that where such buildings adjoin private residential premises, the height of a building shall not exceed the setback to the common property line with such premises. For all other uses a maximum height of 45 feet shall be established.

(b) Minimum building setbacks.

(1) Side and rear yards adjacent to institutional uses. Within an ED District, institutional use separation shall be unregulated by zoning, but shall be subject to such building, fire and safety codes as may be applicable.

(2) Front yard, side yard on a street. There shall be a minimum setback of zero feet from a public street for institutional uses. Where an institutional use is immediately adjacent to noninstitutional-owned property, the minimum setback from the street shall be equal to the setback of the existing structure on the adjacent property (not to exceed 25 feet) for that part of the institutional use within 50 feet of the noninstitutional-owned property.

(3) Side and rear yards adjacent to noninstitutional uses. There shall be a minimum setback of 25 feet from other privately and publicly owned premises (other than a public park), unless a greater amount may be required due to building height as set forth in Subsection (a) of this section. For side and rear yards adjacent to a publicly owned park, the minimum setback shall equal the height of the building.

Sec. 39-322. Special conditions. [Ord. No. 834; Ord. No. 1188, 2-19-1997; Ord. No. 1576, 1-18-2012; 3-7-2018 by Ord. No. 1726]

The following special conditions shall apply in an ED District:

(a) Singularity of uses. Educational institutions within an ED District shall be considered singular uses, notwithstanding the fact that they may be comprised of several and

separate component uses on one or more individually described parcels of land. In addition, an educational institution shall be considered singular and unified irrespective of streets, alleys, rail lines or rights-of-way which may run through or among various parcels comprising an educational campus.

(b) Residential premises. For the purposes of mapping and description clarity, residential premises may be included in describing an ED District. Such properties may be used or developed in accordance with the regulations of the R-TRN Traditional Residential Neighborhood District.

(c) Parking generally. Off-street parking shall be provided in the amount set forth in Article IV of this chapter. As singular unified uses, educational institutions shall not be obligated to provide individual parking accommodations on individual building plots, but are encouraged to develop perimeter parking lots to minimize vehicular activities within a campus area. Paving and parking in the Central Neighborhood District overlay area portion of the ED Education District shall be in accordance with Section 39-62 of this chapter.

(d) Special housing requirements. Student housing designed in the manner of on-campus apartments which could, under other circumstances, be divested from the campus and occupied as private residential premises shall be so designed as to assure the availability of not less than a twenty-foot setback from any property line, either actual or hypothetical, and shall further retain sufficient open space immediately adjacent to such buildings to permit future development of parking at a ratio of not less than one space per dwelling unit.

(e) Additional parking requirements; applicability of other chapters of Code to institutional uses. Except for the provisions of Subsection (c) of this section with respect to the location of parking areas, all other applicable requirements for the establishment and operation of parking areas shall apply within an ED District. In addition, institutional uses within such districts shall be subject to all other chapters of this Code which may be applicable thereto.

(f) Expansion or alteration. The initial establishment of an ED District on the Zoning Map is not intended to limit or prohibit the growth of educational institutions within such districts, and the boundaries of such a district may be expanded or altered in accordance with the provisions of this chapter and state law.

Sec. 39-323. through Sec. 39-329. (Reserved)

DIVISION 3
Airport Zoning Regulations

Sec. 39-330. Intent and purpose of article. [Ord. No. 984, 8-16-1989; Ord. No. 1188, 2-19-1997; Ord. No. 1700]

(a) An ordinance establishing airport zoning regulations restricting the height of structures and objects of natural growth and otherwise regulating the use of property in the vicinity of the West Michigan Regional Airport; providing for the allowance of

variances from such regulations; designating Community and Neighborhood Services staff responsible for the administration and enforcement of such regulations; establishment of the Zoning Board of Appeals to render decisions to property owners desiring to erect any structure or increase the height of any structure or permit the growth of any tree or otherwise utilize the property in violation of the airport zoning regulations adopted under this district.

(b) This section is adopted pursuant to the authority conferred by the provisions of the Act No. 23 of the Public Acts of the State of Michigan for the year 1950 (Extra Session[22] and, as amended, Act No. 158 of the Public Acts of the State of Michigan for the year 1976 for the purpose of promoting the health, safety and general welfare of the inhabitants of the counties of Ottawa and Allegan by preventing the establishment of airport hazards and thereby protecting the general public, users of the West Michigan Regional Airport and occupants of land in its vicinity, and preventing the destruction and impairment of the utility of said airport and the public investment therein.

Sec. 39-331. Definitions. [Ord. No. 984, 8-16-1989; Ord. No. 1188, 2-19-1997; Ord. No. 1314, 9-19-2001]

(a) AIRPORT — Refers to the Tulip City Airport and all appurtenances used or acquired for airport buildings or other airport facilities and all other appurtenances rights-of-way or other interests either heretofore or hereafter established.

(b) AIRPORT HAZARD — Any structure or tree within the airport hazard area which exceeds height limitations established by this ordinance, or any use of land or of appurtenances thereto within the airport hazard area which interferes with the safe use of the airport by aircraft.

(c) AIRPORT LAYOUT PLAN — A plan, or an amendment to a plan, that shows current or proposed layout of the Tulip City Airport and that is approved by the Michigan Aeronautics Commission. [On file in the office of the City Clerk.]

(d) AIRPORT PROPERTY — Refer to any property owned by the City of Holland, whether in fee or easement, used directly or indirectly for the purposes of the Tulip City Airport.

(e) AIRPORT PROTECTION ZONE — The zone or area wherein certain types of land uses are not recommended due to noise, vibration, fumes, dust, fuel particles and other effects that may be caused by the operation of aircraft landing, taking off, or operation at or on the airport. Depicted herewith on Figure 1 [not set out herein].

(f) ABOVE MEAN SEA LEVEL — When used in this ordinance or on the accompanying maps, denotes elevations above sea level as based upon and determined by reference to United States Coastal and Geodetic Survey data.

(g) NONCONFORMING USE — Is any structure, tree or use of land which does not conform to regulations prescribed in this ordinance or any amendment thereto as of the effective date of this ordinance [September 6, 1989].

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22. Editor's Note: See MCLA § 259.431 et seq.

(h) STRUCTURE — Any object constructed or installed by man, including but without limitation, buildings, towers, smokestacks, overhead transmission lines, radio and television aerials and antennas, but not including highways and their appurtenances.

(i) TREE — Any object of natural growth.

Sec. 39-332. Planning Commission. [Ord. No. 984, 8-16-1989; Ord. No. 1188, 2-19-1997; Ord. No. 1700]

The Planning Commission is designated by the City of Holland and the Michigan Aeronautics Commission for the express purpose of establishing airport zoning regulations. Community and Neighborhood Services staff are charged with the responsibility of administering the provisions of this section in conjunction with applicable City departments and services. The Planning Commission Staff establishes land uses within the designated airport protection zone as depicted on Figure 1 and Figures 2a and 2b [not set out herein], according to the provisions of this ordinance.[23] Land uses are suggested with regard to noise, traffic, pollution and other adverse impacts associated with the land use of the airport.

Sec. 39-333. Zoning Board of Appeals. [Ord. No. 984, 8-16-1989; Ord. No. 1188, 2-19-1997; Ord. No. 1700]

The Zoning Board of Appeals is designated by the City of Holland and the Michigan Aeronautics Commission for the express purpose of providing relief in the event of practical difficulty or unnecessary hardship, if not contrary to the public interest and safety, height limitations or land use restrictions imposed by administrative approval in accordance with this chapter. Thus, any person adversely affected by the provisions of this article may apply for a variance from the provisions herein according to the procedures set forth in Article XII of this chapter, the terms of which are incorporated herein by reference.

Sec. 39-334. Nonconforming structures and uses. [Ord. No. 984, 8-16-1989; Ord. No. 1188, 2-19-1997]

(a) Existing nonconforming structures. Notwithstanding the provisions of the Article III of this chapter, this ordinance does not affect existing structures, the height of which exceeded the limits imposed by this ordinance as of the effective date hereof [September 6, 1989]. New construction, and construction increasing the height of existing structures, within three miles of the airport, must conform to the provisions on height limitations. This ordinance also restricts such use of land within the vicinity of the airport as will interfere with radio communications systems and other navigational aids or devices used by the airport and aircraft, or would reduce visibility or would create confusing lights.

(b) Existing nonconforming uses. Notwithstanding the provisions of the Article III of this chapter, legal height limitations of this ordinance shall not apply to structures, trees, or other nonconforming uses in the airport hazard area existing on the effective date of this ordinance, [September 6, 1989], unless subsequent to the effective date of the

23. Editor's Note: Figures 1, 2a, 2b, 3, and 4 are on file in the City offices.

ordinance the Building Inspector of the City of Holland determines the structure or tree to be abandoned more than 50% destroyed, deteriorated or decayed. Any changes or alterations in existing structures, trees or other nonconforming uses after the effective date of this ordinance are subject to all provisions of this ordinance with the same force and effect as though the same were new uses.

Sec. 39-335. Airport hazard area. [Ord. No. 984, 8-16-1989; Ord. No. 1188, 2-19-1997]

There is hereby established an airport hazard area, Figure 4 [not set out herein], which area or zone consists of all the lands within Allegan and Ottawa County lying beneath the approach, transitional surface 150 feet horizontal, and land being located within a circle having a radius extending horizontally three miles from the established center of the usable landing area of the airport and the boundaries of which surfaces are shown on Figure 4. The airport hazard area includes the aviation easement areas existing and future to be maintained at ground zero, meaning no structure of any description is permitted within the easement area.

Sec. 39-336. Land use. [Ord. No. 984, 8-16-1989; Ord. No. 1188, 2-19-1997]

(a) Legal height limitations. From the effective date of this ordinance [September 6, 1989], it shall be unlawful for any person to erect any structure or allow any tree to grow to a height in excess of the limitation prescribed by the terms of this ordinance and the attached maps; or to establish any use of lands contrary to the provision of this ordinance. This would include any structure at or exceeding 150 feet in height within the airport hazard area.

(b) Unlawful land use. Notwithstanding any other provisions of this ordinance, it shall be unlawful to put any lands within the airport hazard area to any use which would:

(1) Create electrical interference with radio communication between the airport and aircraft or create interference with navigational aids employed by aircraft;

(2) Make it difficult for pilots to distinguish between airport lights and other lights or result in glare in the eyes of fliers using the airport;

(3) Create air pollution in such amounts as to impair the visibility of pilots in the use of the airport;

(4) Endanger the landing, taking off or maneuvering of aircraft;

(5) Attract birds.

Sec. 39-337. Administration and site plan review. [Ord. No. 984, 8-16-1989; Ord. No. 1188, 2-19-1997; Ord. No. 1314, 9-19-2001; Ord. No. 1514, 8-20-2008; Ord. No. 1552, 10-20-2010; Ord. No. 1700]

(a) Administration. Community and Neighborhood Services Department staff of the City of Holland is charged with the duty of administering and enforcing the provisions of this chapter. The duties of staff shall include those of issuing permits as hereinafter required. The Building/Zoning Administrator shall not issue a building permit prior to

receiving a determination from the Federal Aviation Administration regarding a site plan required under § 39-337, and may adopt such other administrative procedures as may be necessary in connection with the administration and enforcement of this ordinance.

(b) Site plan review. A site plan review conducted by Community and Neighborhood Services Department staff in accordance with Article II of this chapter will be required. Staff shall review the site plan in accordance with aviation protection zones as set forth in the current airport layout plan as adopted by the City, the use complies with all the provisions of Section 39-336, and the proposed use does not unduly interfere or restrict the development of the Master Plan of the West Michigan Regional Airport. Staff shall request and receive a written recommendation on the site plan from the West Michigan Airport Authority or its staff prior to acting on the plan. With the exception of construction or alteration on airport property, which will be reviewed by the West Michigan Airport Authority, and with the exception of accessory buildings that have a maximum height of 12 feet and maximum floor area of 200 square feet that will be reviewed by the Zoning Administrator, this section shall apply to the following circumstances:

(1) New construction within 3,200 feet of any primary runway, such as Runway 8-26 east-west, and within 2,500 feet of any secondary or crosswinds runway, such as Runway 18-36 north-south, as depicted in an approved airport layout plan (not set out herein);

(2) Alteration of an existing structure within 3,200 feet of any primary runway, such as Runway 8-26 east-west, and within 2,500 feet of any secondary or crosswinds runway, such as Runway 18-36 north-south, as depicted in an approved airport layout plan, exceeding the height of the structure or any structural addition resulting in the increase of the size of the structure.

(c) Approval by the Zoning Board of Appeals shall be obtained for:

(1) Any structure equal to or exceeding 150 feet in height from any point within the airport hazard area as delineated in the City's current airport layout plan.

(2) Special exception permit. In the case of a property within 3,200 feet of any primary runway, such as Runway 8-26 east-west, and 2,500 feet of any secondary or crosswinds runway, such as Runway 18-36 north-south, as depicted in an approved airport layout plan, a change of use of the property shall require a special exception permit by the Zoning Board in accordance with the provisions herewith and in Article XI. After a public hearing, the Zoning Board may grant a special exception in accordance with the provisions herewith, if the proposed use meets all of the following conditions:

(d) Federal permits. Federal permits may also be required for the aforementioned categories of alteration or construction which must be received for administrative review. Federal permits are required for any construction on airport property or structures or trees exceeding 60 feet in height within the three-mile radius as depicted on Figure 4, airport hazard area boundaries.[24]

24. Editor's Note: Figure 4 is on file in the City offices.

(e) Fees. In the case of an application for rezoning of property within any of the aforementioned areas, a site plan review may be conducted concurrently with the rezoning hearing. The fee for a site plan review and special exception permit shall correspond to the fee schedule as described in the Code of the City of Holland. If rezoning is being applied for concurrently with the site plan review process, a fee for rezoning will be charged.

(f) Building permit. A building permit issued subsequent to the review shall be effective for a period of six months from the date of issuance. Thereafter, review as stipulated herewith would be required if substantial construction has not occurred within the six-month time period. Substantial construction shall include the installation of one or more underground utility systems, the installation of streets or the installation of one or more building foundations.

(g) Emergency services. No application shall be required for the emergency repair or replacement of nonconforming public utility structures, other than buildings, when the height of such structures will not be increased by such emergency repairs or replacement. It is intended that in the application of this provision to any combination of circumstances calling for immediate action or remedy in the repair or replacement of such nonconforming public utility structures shall be deemed an emergency.

Sec. 39-338. Regulations and enforcement. [Ord. No. 984, § 8-16-1989; Ord. No. 1188, 2-19-1997]

(a) Regulations of ordinance. This ordinance establishes regulations on land within a three-mile radius of the airport. This ordinance establishes a huge air bowl with a maximum height limitation of 150 feet above the established elevation of the airport at the outer edge and has a maximum height limitation of 60 feet above ground at some locations in the approaches to the runways immediately adjacent to the airport. The height limitations of this ordinance become less severe as the distance from the airport is increased. Any structure or tree constructed exceeding this height within the air bowl subsequent to the adoption of this ordinance must complete the standard Federal Aviation Administration review procedure.

(b) Judicial action. Any person, including the Michigan Aeronautics Commission on behalf of and in the name of the state, aggrieved by any decision of the Zoning Board, may appeal to the circuit court of the County of Allegan as provided in Section 30 of Act No. 23 of the Public Acts of the State of Michigan, 1950 (Extra Session).[25]

(c) Enforcement of ordinance. Any person who shall violate this ordinance or any regulations, orders or rulings promulgated or made pursuant to this ordinance, shall be guilty of a misdemeanor and subject to prosecution. The City of Holland, in addition to criminal action taken, may institute in the circuit court of Allegan County, an action to prevent, restrain, correct or abate any violation of this ordinance, or of any airport zoning regulations adopted under this ordinance.

(d) Federal regulations. This ordinance is not intended to conflict with existing federal airport protection regulations. In addition to the provisions of this Division, a property

25. Editor's Note: See MCLA § 259.460.

owner shall comply with the provisions of any federal or state statute, rule or regulation. The Federal Aviation Administration requires property owners to give notice of any construction or alteration:

(1) More than 200 feet above ground level at its site.

(2) Above an imaginary surface extending outward and upward at 100 to one slope within 20,000 feet of the nearest point of a runway more than 3,200 feet in length.

(3) Above an imaginary surface extending outward and upward at 50 to one slope within 10,000 feet of the nearest point of a runway less than 3,200 feet in length.

DIVISION 4
(Reserved)

Sec. 39-339. (Reserved)

DIVISION 5
Overlay Zone Districts

Sec. 39-340. Purpose and definitions. [Ord. No. 1298, § 1, 5-23-2001]

(a) Purpose. The purpose of this division is to describe certain overlay zones used to impose special development requirements on identified areas. The location of overlay zones is established by the City of Holland based on the need for special protective and/or proactive measures in that area. The uses permitted in the underlying zone district remain undisturbed by the creation of the overlay zone. The overlay zone imposes additional development standards, with the objective of integrating development through an overall policy and elevating the development quality of a whole specified area above the level of quality achievable through the incremental and isolated development of individual properties. If the provisions of the following overlay zone districts conflict with other sections of the Zoning Ordinance, the provisions of the overlay zone districts shall take precedence. The provisions of this division shall also be held to promote the public health, safety, and general welfare. Among other purposes, such provisions are intended to provide for adequate light, air, and convenience of access to provide safety from fire and other dangers, to provide for appropriate densities of development and population; to regulate the size of yards and other open spaces; and regulate the location of uses and buildings in relation to pedestrian, traffic, safety, parking, and urban character needs.

(b) Definitions.

(1) FACADE — An exterior wall of a building.

(2) STREET REGULATING PLAN — The plan for existing and future public street rights-of-way and alignments for the South End area as depicted in the South End Master Plan.

(3) SOUTH END MASTER PLAN — The comprehensive land use and physical improvements and design plan prepared and adopted by the Planning Commission for the South End neighborhood area.

(4) WIDTH — A lineal dimension of a site or building measured on a line parallel to the line of the street frontage.

Sec. 39-341. Specific area standards—M-40 Corridor/South End Overlay Zone District. [Ord. No. 1298, § 1, 5-23-2001; Ord. No. 1567, 7-20-2011; amended 5-13-2015 by Ord. No. 1647; 3-7-2018 by Ord. No. 1727]

This overlay district is intended to require a measured amount of design, safety, and developmental qualities for all properties within the district. These qualities are meant to provide unifying elements and components that will elevate the overall quality of development for the entire area to a level higher than the quality of development and design that may otherwise be achieved for this area in the absence of these qualities. The City of Holland deems these standards necessary in order to achieve the goal of creating a high-quality gateway entrance to the City and a high-quality mixed-use neighborhood for these lands. The overlay district defines gateway qualities; is supportive of commercial and industrial activities; and assures a quality and character of the physical environment that will be supportive of vehicular and nonmotorized access to those commercial and industrial areas and supportive of nearby residential, neighborhood commerce, and institutional development.

(a) Area. The M-40/South End Overlay District shall include those lands along and adjacent to State Highway M-40 that are described as follows: I-196 shall be the boundary line of the district to the north; the City limits shall be the boundary line of the district to the south; a boundary line to the east located 200 feet east of, parallel to and measured at right angles to the right-of-way line of State Highway M-40; and a boundary line to the west located 200 feet west of, parallel to and measured at right angles to the right-of-way line of State Highway M-40.

(b) Access management.

(1) All access onto M-40 shall be subject to the review and approval of the Michigan Department of Transportation (MDOT) and site plan review by the Planning Commission based on standards in this section and Sections 39-23 and 39-24 of this chapter.

(2) The Master Plan identifies major reconstruction and improvement of M-40 through the South End, as illustrated on the street regulating plan and as may be amended by the MDOT hereafter. Upon construction of streets shown in the street regulating plan, and upon major reconstruction of the M-40 corridor, all properties within the overlay area shall receive access only via streets as shown on the street regulating plan. On an interim basis, until such street improvements are in place, access via temporary driveways to M-40 or other existing public streets via shared or individual driveways will be permitted. All such driveways onto M-40 shall be strictly limited and may be limited to right turn in and right turn out where safety concerns are evident. A temporary driveway entrance off M-40 to a given parcel may be prohibited if there is adequate access to the

property by means of a connecting interior drive from an adjoining parcel that has access to M-40.

(3) Driveways serving properties from adjoining streets other than M-40 shall be at least 150 feet distant from the M-40 right-of-way, measured from the center line of the driveway to the nearest edge of the M-40 right-of-way.

(c) Building placement/required yards.

(1) For property with frontage on M-40 and all property in the M-40 corridor within 200 feet of the M-40 right-of-way line, all buildings shall have a maximum yard requirement between the existing M-40 right-of-way and the building of 120 feet and a minimum yard requirement of 40 feet.

(2) The maximum or minimum yard requirement from all other lot lines including the right-of-way for public streets abutting the site shall be per the requirements of the underlying zone district, or if the property is zoned PUD Planned Unit Development District or PRD Planned Residential Development District, as determined by the Planning Commission in accordance with Section 39-25.

(d) Exterior building design. The following minimal window requirement is meant to promote public safety by allowing occupants in a building to see outside and monitor activities around at least a portion of the building, and thereby reduce the potential for unlawful activities. Windows shall be provided for at least 25% of the first 18 inches to eight feet of height of the building elevations that face M-40.

(e) Lighting.

(1) All lighting shall comply with the standards of Section 39-25(d) of this chapter.

(2) Areas designated for pedestrian activity shall be provided with lighting fixtures that are pedestrian in size/scale, height, and function.

(f) Parking. All parking requirements and arrangements shall comply with Article IV, Off-Street Parking and Loading, of this Zoning Ordinance.

(g) Signage. In addition to the base requirements of Article IX, Signs, of this Zoning Ordinance, the following standards shall apply:

(1) All signage shall comply with the base underlying zone district requirements of this chapter, unless the underlying zone district is a PUD Planned Unit Development District or PRD Planned Residential Development District, in which case the Planning Commission shall determine the signage rights using the base underlying zone district requirements as a guideline.

(2) New billboard and off-premises advertising signs shall not be allowed in the overlay district area.

(h) Landscaping/screening/buffering.

(1) The objective of this subsection is to set and insure that a plentiful yet flexible amount of landscaping is retained and introduced into this highway oriented environment that serves as a major gateway entrance into the Southside industrial areas and the larger city beyond. Expectation levels will be high regarding the

quantity and quality of landscaping and other environmental treatments in both the public right-of-way areas and those privately owned high-visibility areas along the M-40 frontage, both as a means of beautifying the lands on which the landscaping is actually placed, and helping to create a special unifying identity for this area.

(2) Parking areas that are adjacent to a side property line, other than a side yard on a side street, shall include a seven-foot-wide minimum perimeter landscape strip. Two adjacent properties may each evenly share in the joint development of a single ten-foot-wide landscape strip along their common property line, if the properties are developed concurrently.

(3) All perimeter landscape buffer strips required by this subsection shall be continuous and unbroken except for driveways, streets, or sidewalks that are meant to access interior portions of the property as otherwise regulated. Such driveways, streets, or sidewalks that cross the perimeter landscape strip shall by design minimize interruption of the landscape buffer strip.

(4) All properties that have direct frontage on M-40 shall provide a landscape buffer strip adjacent to the M-40 right-of-way per the requirements of this subsection. Landscape buffer strips adjacent to the M-40 right-of-way shall comply with the following requirements:

a. When paved vehicle parking and/or circulation areas are proposed between the right-of-way and a building, the landscape buffer strip shall be a minimum of 40 feet wide. This landscape buffer strip shall include either a continuous three-foot-high landscaped berm or a continuous 2.5-foot (thirty-inch) permanent masonry or brick wall, as measured by the elevation of the edge of the closest portion of the parking lot, in addition to the landscape plantings schedule of this section; or a combination of a continuous three-foot-high landscape berm and 2.5-foot (thirty-inch) permanent masonry or brick wall, in addition to the landscape plantings schedule of this section, as measured by the elevation of the edge of the closest portion of the parking lot.

b. When there are no paved vehicle parking and/or circulation areas proposed between the right-of-way and a building, the landscape buffer strip shall be a minimum of 40 feet wide and shall include landscaping per the landscape plantings schedule of this section. A continuous three-foot-high landscaped berm, or a continuous 2.5-foot (thirty-inch) permanent masonry or brick wall may substitute for the required shrub plantings in the following landscape planting schedule.

(5) Landscape planting schedule. The landscaping of landscape buffer strips adjacent to the M-40 right-of-way shall be in accordance with the following minimum standards at the time of planting:

Type of Planting	Minimum Quantity per 100 Lineal Feet Abutting Street	Minimum Sizes
Native deciduous	4	2.5 inches caliper shade trees
Ornamental	3	1.5 inches caliper understory trees
Shrubs	20	18 inches spread

(6) After reviewing the required landscape plan that includes an inventory of existing on-site vegetation, the Planning Commission may determine that existing natural vegetation may be credited towards meeting the landscaping standards of this subsection. Every effort shall be made to save and retain existing healthy and compatible vegetation and integrate said vegetation with the design of the project.

(7) Alternatives for a berm and wall. The requirement for a berm and wall may be waived by the Planning Commission if they determine that, based on information supplied to the Planning Commission, an adjacent parking lot will be substantially screened from the view of M-40 due to the final topography of the area.

(i) Sidewalks.

(1) The provision of sidewalks adjacent to all public streets throughout this entire overlay district is of utmost importance and is hereby required of all properties that have frontage on a public street.

(2) The minimum width of sidewalks shall be as follows:

a. Ten feet adjacent to M-40.

b. Six feet adjacent to all other streets.

c. Ten feet for properties with frontage in the Neighborhood Center area.

Sec. 39-342. Specific area standards—I-196 Overlay Zone District. [Ord. No. 1298, § 1, 5-23-2001]

This overlay district is intended to provide for a standard amount of landscaping and screening in the highway frontage yard areas of properties adjacent to I-196. These standards are above the screening requirements of the underlying zone districts and are meant to: provide a consistent, landscaped corridor character; help screen large parking areas, loading docks, and outside storage and refuse/recycling areas from the direct view of the passing motoring public; help alleviate glare and other forms of stray lighting from adjacent properties onto the highway, thereby improving driving conditions on the highway while

enhancing the character and privacy of private properties; and enhance the quality of appearance and character of the roadside areas.

(a) Area. The I-196 Overlay District shall include those lands along and adjacent to Interstate Highway I-196 that is described as follows: All that property located within 30 feet of the I-196 right-of-way.

(b) Landscaping/screening/buffering. All properties that have direct frontage on I-196 shall provide a perimeter landscape buffer strip per the requirements of this section.

(1) The landscape buffer strip shall have a minimum width of 30 feet running adjacent to the I-196 right-of-way.

(2) Existing significant natural vegetation within the buffer strip shall not be disturbed, except the Planning Commission may approve a pedestrian sidewalk or trail system in the area, as well as environmentally sensitive on-site stormwater management improvements as a component of a site or development plan approval procedure.

(3) The intensity of vegetation in this buffer strip shall at a minimum consist of one tree or shrub planting per 200 square feet of buffer strip area with 50% of the vegetative plantings being trees at least six feet high, and 50% of the plantings being shrubs or hardy perennials at least 18 inches high at the time of planting.

(4) Existing natural vegetation shall be credited towards the requirements of this section, where Community and Neighborhood Services determines the natural vegetation to be healthy and of compatible high quality.

(c) Location of parking and structures. Parking spaces, paved surfaces, or structures are prohibited in this buffer strip area, except this shall not apply to a pedestrian sidewalk or trail system that includes pedestrian benches and other similar amenities.

Sec. 39-343. Residential Rental Restriction Overlay District (RROD). [Added 9-17-2014 by Ord. No. 1636]

The Residential Rental Restriction Overlay District is a zoning classification which permits owners of property within R-1, R-2 and R-TRN residential zoning districts to petition City Council to establish an overlay district, and district use regulations in their residential neighborhood, which would prohibit or restrict the rental uses of one-family and two-family dwellings within the neighborhood. These districts establish a level of restriction which operates to preserve the attractiveness, desirability, and privacy of single-family residential neighborhoods by precluding all additional rental properties and thereby precluding the deleterious effects that single-family and two-family rental properties can have on a neighborhood with regard to property deterioration, increased density, congestion, noise and traffic levels and reduction of property values. The goal of the overlay district is to allow owners of property within single-family and two-family residential neighborhoods to control the types of rental properties, if any, that are permitted in one-family and two-family

dwellings within their neighborhood. It is also the purpose of the districts to achieve the following objectives:

(a) To protect the privacy of residents and to minimize noise, congestion, and nuisance impacts by regulating the types of rental properties;

(b) To maintain an attractive community appearance and to provide a desirable living environment for residents by preserving the owner-occupied character of the neighborhood;

(c) To prevent excessive traffic and parking problems in the neighborhoods;

(d) To preserve the single-family housing stock for ownership opportunities.

Sec. 39-343.1. Uses permitted in RROD. [Added 9-17-2014 by Ord. No. 1636]

Uses permitted in the Residential Rental Restriction Overlay (RROD) District include all uses in the underlying zoning district except the use or occupancy of a one-family and two-family dwelling unit so as to require a rental housing certificate pursuant to Section 14-4.27 of the Code of the City of Holland.

Sec. 39-343.2. Procedures for establishing residential overlay districts. [Added 9-17-2014 by Ord. No. 1636]

(a) The following procedures must be complied with in order to establish a residential overlay district:

(1) A petition requesting an overlay district must be submitted to the City Clerk on forms provided by the City Clerk. The petition requirements are as follows:

a. At least two days prior to circulating a petition, the circulator(s) of the petition must distribute a rental restriction overlay district information sheet, approved and created by the City, to each property owner shown on the City's tax rolls within the area to be petitioned, a copy of which shall be available in the City Clerk's office for review.

(2) Each petition must be circulated by a person who owns property within the proposed district and be signed by the circulator.

(3) The petition must contain the signature and address of two-thirds of the owners within the proposed boundary of the overlay district, exclusive of public property. Jointly owned parcels will be considered owned by a single person for purpose of petitioning and any co-owner may sign a petition for such parcel. Only one owner of each parcel will count towards the two-thirds requirement. If a person owns more than one parcel of property within the proposed district, he/she may sign the petition for each parcel he/she owns.

(4) Each person signing the petition must also enter, on the petition, adjacent to his/her signature, the date that the person signed the petition.

(5) The petition must accurately advise the signer of what restrictions would be imposed on the property if the overlay district is established. The circulator(s) of the petitions shall verify on the petition that the required information sheet was distributed to each property of record at least two days prior to circulation of the petition and those signing the petition must acknowledge that they received the required information sheet at least two days prior to signing the petition by marking the appropriate box next to their signature.

(6) The proposed boundaries of the overlay district must be described in the petition and the boundaries must, if practicable, consist of streets, alleys, platted subdivision boundaries or existing zoning district lines which totally enclose the proposed district.

(7) There must be at least 48 separate lots or parcels within the proposed district as described in the petition or two discernible blocks or the proposed district must constitute a discrete neighborhood geographic area. Within a proposed district, at least 20% of the existing one-family and two-family properties must have an active rental certificate.

(8) The proposed boundaries of the overlay district must be entirely within R-1, R-2, or R-TRN Zoning Districts and the parcels within the proposed district must be contiguous.

(9) The proposed boundaries may not overlap a boundary of existing overlay districts or the boundary of an overlay district that is already the subject of an introduced ordinance pursuant to this section.

(10) When submitted, no signature dated earlier than six months prior to the time the petition is filed with the City Clerk shall be counted in determining the validity of the petition.

(b) Upon presentation to the City Clerk for review, the Clerk shall verify that the required numbers of signatures are obtained and that the signatures on the petitions are of property owners within the proposed district. If insufficient signatures are presented, the Clerk shall return the petitions to the person filing the petitions and identify the valid and invalid signatures. If sufficient valid signatures are presented, the Clerk shall refer the petitions to the Zoning Department which shall then, within 30 days, determine whether the petitions are in conformity with the remaining conditions of this section.

(1) If the petition is determined to be in conformity with the requirements of this section, the Department of Community and Neighborhood Services shall draft an appropriate ordinance and forward it to the City Planning Commission for its review and recommendation to City Council in accordance with the procedures set forth in Section 39-19. All procedures set forth in Section 39-19 for zoning changes by petition shall thereafter be followed.

(2) If the petition is not in conformity with the requirements of this section, the Department of Community and Neighborhood Services shall reject the petition and return it to the Clerk with a written explanation as to why the petition does not meet the requirements of this section. The Clerk shall then forward the petitions, and the explanation, to the person who filed the petitions.

(3) If the petition is rejected for failure to comply with the boundary requirements, it may be resubmitted with the proper boundary lines if it is accompanied by certification that a copy of the petition and written notice was mailed to each property affected by the change, notifying them that their property was either added to or deleted from the petition and if by the correction of the boundary line the petition still meets all other requirements of the code.

(4) If the petition is rejected for an insufficient number of valid signatures, it may be resubmitted with the additional signatures necessary to have it comply as long as the other signatures remain valid.

(5) If an ordinance is forwarded to City Council pursuant to this section, after consideration of the petition and the recommendations of the Zoning Administrator, if any, the City Council may make additions or changes in the boundaries of the proposed overlay district to prevent spot zoning, to include or exclude areas that logically should have been included or excluded in the petition, to make the boundaries of the proposed overlay district abut boundary lines of other zoning districts and overlay districts, and to adopt an alternate ordinance in conformity with the suggested changes whether or not the two-thirds majority requirement of property owners would still be met with the proposed changes.

(6) If the City Council, in adopting an ordinance for an overlay district, applies the ordinance to fewer parcels of property than the petition sought, the owners of at least two-thirds of the parcels remaining in the overlay district must have signed the original petition.

(c) No earlier than one year after the adoption of an ordinance establishing an overlay district a petition for a change of the size or boundaries of the overlay district may be submitted by following the procedures for establishing an initial overlay district.

Sec. 39-343.3. Effect of overlay district ordinance. [Added 9-17-2014 by Ord. No. 1636]

(a) Upon introduction of an ordinance to create an overlay district and at all times while the ordinance is pending final decision, there shall be a moratorium on the issuance of initial annual basic housing permits to the extent that no initial annual basic housing permit shall be issued within the proposed overlay district to the owner of a one-family dwelling unit that would be precluded if the overlay district was adopted, regardless of whether the license was applied for prior to or subsequent to the ordinance's introduction.

(b) Upon passage of an ordinance by City Council establishing an overlay district, no initial rental unit license shall be issued to an owner of property in the overlay district inconsistent with the restrictions of the overlay district and it shall be unlawful to use or allow any property to be used except in conformity with the requirements of the underlying zoning district and overlay district. Any property in the overlay district that has an existing rental housing license, or has had a rental housing license within one year of adoption of the overlay district, shall be allowed to continue its use and occupancy in accordance with the law existing prior to the date of the adoption of the overlay district. If an owner surrenders an existing license or allows, either intentionally

or unintentionally, a license to remain expired for more than one year, any subsequent use of the property shall be subject to the restrictions imposed by the overlay district.

Sec. 39-343.4. Amendments to Zoning Use District Map. [Added 9-17-2014 by Ord. No. 1636]

This section is derived from ordinances that amended the Zoning Use District Map by rezoning specific properties into a Residential Rental Restriction Overlay District.

Sec. 39-344. (Reserved)

ARTICLE IX
Signs

Sec. 39-345. Intent and purpose. [Ord. No. 1100, 12-15-1993; Ord. No. 1188, 2-19-1997; Ord. No. 1373, 11-5-2003; Ord. No. 1729; 6-6-2018 by Ord. No. 1739; 2-6-2019 by Ord. No. 1763]

Signs perform an important function in identifying and promoting businesses, services, neighborhoods, events, economic development and other matters of interest to the public. The intent of this article is to regulate all signs within the City of Holland to ensure that they are appropriate for their respective uses, in keeping with the neighborhood characteristics as recognized and promoted by the City of Holland Master Plan, to prevent traffic hazards, to provide safer conditions for pedestrians, and protect public health, safety, and general welfare by:

(a) Setting standards and providing uniform regulations that permit reasonable use of signs;

(b) Preserving the various characteristics found within the different zone districts and neighborhoods throughout the City of Holland, regardless of sign content. In preserving the character of the various neighborhoods, signage must be scaled appropriately whereby properties with frontage on wide streets with higher speed limits are permitted larger signs than narrow streets with lower speed limits.

(c) Prohibiting the erection of signs in such numbers, sizes, illumination, and locations as may create a hazard to pedestrians and motorists;

(d) Avoiding excessive amounts of signs so that the existing signs provide adequate identification and direction while minimizing clutter, unsightliness, and confusion; and

(e) Establishing a clear process for requiring permits for signs, allowing some signs without permits, and allowing legally nonconforming signs without jeopardizing the useful life of the sign.

Sec. 39-346. General sign provisions. [Ord. No. 1100, 12-15-1993; Ord. No. 1188, 2-19-1997; Ord. No. 1208, 3-4-1998; Ord. No. 1356, 12-4-2002; Ord. No. 1373, 11-5-2003;

Ord. No. 1427, 10-19-2005; Ord. No. 1436, 1-4-2006; 9-3-2014 by Ord. No. 1634; Ord. No. 1729; 6-6-2018 by Ord. No. 1739; 2-6-2019 by Ord. No. 1763]

(a) Location.

(1) Signs shall not be placed in, upon, or over a public right-of-way, alley, or other public place, except:

a. With a revocable license approved by the City Council;

1. Flags located in C-1 and C-3 Zone Districts and in the I-1 Zone District, if it is for a retail or restaurant use and is located west of College Avenue and north of 9th Street, when appropriately attached to a wall of a building;

b. Temporary moveable freestanding signs located in C-1 and C-3 Zone Districts and in 1-1 Zone District, is a retail or restaurant use and is located west of College Avenue and north of 9th Street with a valid permit.

(2) No light pole, utility pole, or other supporting member of a building or property shall be used for the placement of any sign unless the owner of the pole or supporting member has given permission for such use and the sign conforms to all requirements of this Article IX.

(3) A sign shall not be erected in any place where it may, by reason of its position, shape, color, or other characteristic, interfere with, obstruct the view of, or be confused with any authorized traffic signs, signal, or device, or constitute a nuisance.

(b) Clearance and placement.

(1) Any sign not resting directly on the ground, exceeding six square feet in area and set back less than 10 feet from the right-of-way, shall have a minimum clear space of at least eight feet from the bottom of the sign to the ground.

(2) Projecting signs, awnings, canopies and marquees which extend over the City right-of-way shall have a clear space of eight feet from the bottom of the sign, awning, canopy, or marquee to the ground. A revocable license from City Council is required prior to obtaining a permit.

(3) Signs shall be affixed flat to the face of the awning or canopy.

(4) For wall signs, the distance between the face of the wall and the face of the sign shall not be more than 12 inches.

(5) Wall signs shall be contained within the boundaries of the wall and shall not extend beyond the edge of the wall to which it is affixed, nor extend above the roofline of a building.

(6) Reader boards are allowed on a wall or a freestanding sign, but not on both signs at one parcel.

(c) Maintenance.

(1) All signs shall be maintained free of peeling paint or paper, sun fading, staining, rust, or other conditions which impair the legibility or intelligibility of such sign.

(2) Any signs permitted by the provisions of this article, including all supports, braces, guys and anchors, shall be maintained in conformance with this article and in such a manner so as not to cause a hazard to the public.

(d) Illuminated and electronic signs.

(1) Except for moveable freestanding signs, all signs may be internally or externally illuminated. If externally illuminated, the source of the light shall be enclosed and directed to prevent the source of light from shining directly onto traffic or residential property.

(2) All signs shall comply with the building and electrical codes of the City of Holland. Underground wiring shall be required for all illuminated signs, or signs requiring electrical connections except for permitted temporary signs.

(3) Signs shall not scroll, flash, blink, oscillate or have any other appearance of movement.

(4) Electronic reader board signs (also known as "EMCs") shall have an instantaneous change between messages, with a minimum seven-second delay between displays.

(5) Electronic reader board signs are not permitted within the C-3 Central Business District and in the I-1 Zone District if it is for a retail or restaurant use and is located west of College Avenue and north of 9th Street.

(6) Electronic reader board signs are permitted on a wall or freestanding sign, but not on both signs at one parcel.

(e) Removal of signs; penalty.

(1) If the Building/Zoning Administrator, Zoning Inspector or their authorized representative determines that any sign regulated by this article is unsafe or constitutes a hazard to the public, such as obstructing vision of vehicle drivers or pedestrians, or has been constructed, erected or maintained in violation of the provisions of this article, the official or inspector may remove the sign or require its immediate removal.

(2) Any sign placed or erected in a public street, alley or right-of-way, or other public place, which is not specifically permitted in such place, shall be deemed an unlawful sign and the department of the City having jurisdiction over the maintenance of such public place shall remove such sign or require its immediate removal. Such removal may be without written or other notice to the owner, lessee or person of the property adjacent to the public street, alley or right-of-way, or other public place upon which such sign is located.

(3) A person who violates or fails to comply with a notice to remove the sign under this section is responsible for a Class II civil infraction and is subject to the civil fines set forth in the schedule of fees and charges adopted in Section 2-118 of this Code or any other relief that may be imposed by the court. Each act of

violation and each day upon which such violation occurs shall constitute a separate violation.

Sec. 39-347. Prohibited signs [Ord. No. 1100, 12-15-1993; Ord. No. 1188, 2-19-1997; Ord. No. 1208, 3-4-1998; Ord. No. 1366, § 9, 8-20-2003; Ord. No. 1373, 11-5-2003; 9-3-2014 by Ord. No. 1634; Ord. No. 1729; 6-6-2018 by Ord. No. 1739; 1-2-2019 by Ord. No. 1760; 2-6-2019 by Ord. No. 1763]

The following signs are prohibited:

(a) Pennants, streamers, banners, balloons, or feather signs as permanent signs. Governmental use of such signs is permitted.

(b) Signs shall not employ any flashing, moving, oscillating, blinking, or variable intensity light, such as rolling, fading, moving or animated parts that are designed to give the appearance of movement.

(c) Roof signs.

(d) Billboards and off-premises advertising signs.

(1) A sign that is advertising for a business that is no longer open at the location where the sign is displayed shall be considered an off-premises advertising sign 60 days after the business has closed or moved. A business that has been closed for 60 consecutive days must ensure that all of its signs are removed from the property.

(e) Any vehicle (including trailers) which has the primary function of acting as a sign, unless a temporary sign permit has been issued.

(f) Any sign not specifically permitted by this article.

Sec. 39-348. Nonconforming signs. [Ord. No. 1188, 2-19-1997; Ord. No. 1274, 3-1-2000; Ord. No. 1373, 11-5-2003; Ord. No. 1443, 2-15-2006; Ord. No. 1459, § 2, 8-2-2006; Ord. No. 1478, § 2, 6-6-2007; 9-3-2014 by Ord. No. 1634; Ord. No. 1729; 6-6-2018 by Ord. No. 1739; 2-6-2019 by Ord. No. 1763]

(a) Nonconforming signs may not be expanded, enlarged, or extended; however, said signs may be maintained and repaired so as to continue the useful life of the sign.

(b) A nonconforming sign may be diminished in size or dimension, or the copy of the sign amended or changed without jeopardizing the privilege of the nonconforming use.

(c) Any nonconforming sign, sign structure, or frame that is substantially destroyed by fire or other casualty loss (50% or more) shall not be restored or rebuilt.

(d) When 50% or more of a nonconforming sign, sign structure or frame is removed, it shall be replaced only with a sign that conforms to all ordinance requirements.

(e) A sign that is removed for maintenance or repair, with a permit, shall be reinstalled within 90 days or the right of nonconforming use shall be deemed abandoned.

(f) Moveable freestanding signs and flags are not permitted as nonconforming signs.

Sec. 39-349. Signs allowed without a permit. [Ord. No. 1100, 12-15-1993; Ord. No. 1188, 2-19-1997; Ord. No. 1373, 11-5-2003; 9-3-2014 by Ord. No. 1634; Ord. No. 1729; 6-6-2018 by Ord. No. 1739; 2-6-2019 by Ord. No. 1763]

The following signs may be installed or erected without a permit:

(a) Government signs.

(b) Placards.

(c) Historic markers placed under the authority of the local, state or federal government.

(d) Address numbers.

(e) Hours of operation and other similar business information.

(f) Window signs applied to the interior of the window/door glass.

(g) Window signs applied to the exterior of the window/door glass where the sign does not exceed 15% of the glass area. Windows that are immediately adjacent, on the same wall face of the same building, may be averaged together.

(h) Flags at residentially used properties.

(i) Flags at commercially used properties with a maximum size of 15 square feet, with one per business per street frontage. Flags in the C-1 and C-3 Zones that extend over the public right-of-way shall be attached to the wall of the building at least six feet above the adjacent grade, shall not project more than three feet from the face of the wall, and shall maintain a clear space of eight feet from the bottom of the flag to the ground.

(j) Signs in residential zone districts subject to the following:

Street Frontage	Number	Total Size	Height
Up to 60 linear feet	No limit	12 square feet	6 feet
Over 60 linear feet		24 square feet	6 feet

(k) Noncommercial signs in nonresidential zone districts subject to the following:

Street Frontage	Number	Total Size	Height
Up to 300 linear feet	No limit	32 square feet	6 feet
Over 300 linear feet		64 square feet	6 feet

(l) One temporary sign per special event at nonresidentially used properties in residential zone districts, provided that the sign is not displayed for more than two weeks.

(m) Signage with the international symbol of accessibility or van accessible recognized logo for Americans with Disability Act (ADA) compliance and accessibility.

(n) Signs in conjunction with the construction of a new facility or site plan approval for a new construction project, up to 24 square feet in residential zones, and up to 32 square feet in other zones. These signs shall not exceed six feet in height. These sign shall be removed at the conclusion of the construction project or upon issuance of the certificate of occupancy, whichever occurs first.

(o) Signs at commercial properties that are intended to direct traffic flow and are less than six square feet in area and six feet in height.

(p) Temporary signs for advancing a public interest, when authorized by City Council for a prescribed amount of time.

(q) Signs in conjunction with activities of the Downtown Development Authority.

(r) Writing or logos that are an integral part of a fabric umbrella, used primarily to provide shade or cover to customers.

(s) Murals:

(1) Type 1 and Type 2 murals in all districts, subject to the restrictions set forth in this subsection.

(2) Prior to installation of a mural, the property owner or tenant shall apply for a determination of whether the proposed design or representations is a sign, a Type 1 mural or a Type 2 mural and, if the proposed design or representation is a Type 2 mural, whether it complies with the requirements of this subsection.

(3) The application shall be to the Design Review Board (DRB) if the proposed location of the design or representations is on property within the C-3 Downtown Commercial Zone District and in the I-1 Zone District if it is for a retail or restaurant use and is located west of College Avenue and north of 9th Street.

a. The application shall be to the Director of Community and Neighborhood Services or his/her designee if the proposed location of the design or representations is in any other district.

(4) After the determination:

a. If the proposed design or representation is determined to be a sign, the applicant shall comply with all further review and requirements of this chapter for signs before creating or installing the sign.

b. If the proposed design or representation is determined to be a Type 1 mural, no further review or action is necessary before creating or installing the mural.

c. If the proposed design or representation is determined to be a Type 2 mural, the applicant shall obtain a determination of whether the Type 2 mural complies with all requirements of Subsection(s)(5) of this section before creating or installing the mural.

(5) A Type 2 mural shall be allowed if:

a. The graphics, words, and/or symbols referencing the establishment, product, or service are limited in scope and dominance, and not readily construed as commercial advertising. References must be subtle and integrated into the overall mural.

b. For purposes of this subsection, "limited in scope and dominance" shall mean not exceeding 20% of the wall area on which it is located, integrated throughout the mural and not be placed in a concentrated area or manner where it becomes, in essence, a prominent advertisement.

c. The references to an establishment, product, or service are not in the form of traditional building signage. Traditional signs on the same wall will be reviewed separately under applicable sign requirements.

(6) Where numbers of signs or maximum square footages apply to a particular location, a mural shall not count as a sign nor figure into the allowable sign area.

(7) An aggrieved applicant may file an appeal to the Board of Appeals for review of a decision relating to a mural. The Board of Appeals shall review the decision based on the criteria in this Subsection 39-349(s).

Sec. 39-350. Sign permits and licenses required. [Ord. No. 1100, 12-15-1993; Ord. No. 1188, 2-19-1997; Ord. No. 1208, 3-4-1998; Ord. No. 1373, 11-5-2003; Ord. No. 1729; 6-6-2018 by Ord. No. 1739; 2-6-2019 by Ord. No. 1763]

(a) Except as provided in Section 39-349, a sign permit is required to erect, alter, place, or replace any sign structure, as regulated below and required by this chapter, or by the Holland City Code. A permit is also required for substantial maintenance or repair to an existing nonconforming sign.

(b) In order to obtain a sign permit, an application shall be filed with the Department of Community and Neighborhood Services on forms provided by the Department.

(c) A sign erector's license is required for any permanently installed sign with a vertical height greater than the horizontal distance from any portion of the sign to any property line.

(1) Application shall be made to the City Clerk, on forms prescribed by the Clerk, and the applicant shall pay the annual fee established by City Council. Applications shall include public liability and property damage insurance documentation in the amounts specified in Chapter 10, from an insurer approved by the Commissioner of Insurance of the state. Every policy of insurance required by this section shall bear an endorsement to the effect that the insurer shall notify the licensee and the City Clerk in writing at least 10 days prior to the expiration of such policy.

(2) If the licensee shall at any time fail to comply with the provisions of this article or shall fail to comply with any written directions of the Building/Zoning Administrator and Zoning Inspector, based upon the provisions of this article, the

Building/Zoning Administrator and Zoning Inspector or authorized representative may proceed with legal action to suspend or revoke the license.

Sec. 39-351. High density and nonresidential uses in Residential, PRD, and Agricultural Zone Districts. [Ord. No. 1100, 12-15-1993; Ord. No. 1188, 2-19-1997; Ord. No. 1373, 11-5-2003; Ord. No. 1525, 1-7-2009; Ord. No. 1729; 6-6-2018 by Ord. No. 1739; 2-6-2019 by Ord. No. 1763]

The following high-density and nonresidential uses shall be allowed to have permanent signage, in addition to other signs allowed by this article: residential subdivisions, mobile home parks, multiple-family complexes with six or more units, public lodging facilities as regulated by Chapter 26, schools, churches and other nonresidential uses permitted in the residential, PRD and agricultural zone districts.

(a) Freestanding signs:

(1) Number: two signs maximum.

(2) Size: 32 square feet maximum for each sign.

(3) Location: Signs 16 square feet or less shall be set back 12 feet from all property lines. Signs larger than 16 square feet shall be set back at the minimum building setback for the zone district.

(4) Height: six feet maximum.

(b) Wall signs:

(1) Number: one per street frontage.

(2) Size: 12 square feet maximum.

(c) Identification signs for public lodging facilities allowed by Chapter 26:

(1) One freestanding sign measuring four square feet maximum in area and three feet tall, located at least 15 feet from all property lines; or

(2) One wall sign measuring six square feet in area affixed flat to the residence.

Sec. 39-352. Education Zone District. [Ord. No. 1100, 12-15-1993; Ord. No. 1188, 2-19-1997; Ord. No. 1309, 8-1-2001; Ord. No. 1373, 11-5-2003; 3-7-2018 by Ord. No. 1727; Ord. No. 1729; 6-6-2018 by Ord. No. 1739; 2-6-2019 by Ord. No. 1763]

All signs in this zone district shall require a permit, unless otherwise exempted. Signs shall have no height or area restrictions and have a zero setback from the property line. Signs in this zone district are intended primarily to be of such size, scale and location to serve this pedestrian-oriented community.

Sec. 39-353. Commercial, PUD, and Industrial Zone Districts. [Ord. No. 1100, 12-15-1993; Ord. No. 1188, 2-19-1997; Ord. No. 1206, 12-17-1997; Ord. No. 1373, 11-5-2003;

Ord. No. 1508, 7-16-2008; Ord. No. 1729; 6-6-2018 by Ord. No. 1739; 1-2-2019 by Ord. No. 1760; 2-6-2019 by Ord. No. 1763]

The following signs shall be allowed:

(a) Temporary signs, such as pennants, streamers, banners, balloons, balloon signs, feather signs and other similar temporary displays, are allowed subject to a sign permit, provided that:

(1) They shall not be displayed for more than 14 consecutive days.

(2) No more than two permits will be issued per calendar year, per parcel of land.

(3) Size and location. Signs shall comply with yard and height requirements for other signs in the zone district.

(4) PUD Zone Districts shall comply with the yard and height requirements as established for C-2 Zones.

(b) Permanent signs are allowed subject to a sign permit. The chart below[26] represents the type of permanent signs allowed in each zone district, as well as the maximum number, size, placement, required setback and any other district regulations. These signs are allowed in addition to signs in Section 39-353(c) and other sections permitted by this chapter.

(c) Other signs. The following other signs are allowed in addition to temporary and permanent signs, with a sign permit.

(1) Signs at drive-through restaurant facilities are permitted (where allowed by the Zoning Ordinance) in addition to other signs with the following conditions:

a. Maximum size of 32 square feet.

b. Signs shall not be read from the public right-of-way.

c. Speakers shall be directed away from residential uses.

(2) Neighborhood Commercial District identifier sign.

a. The Director of Community and Neighborhood Services or a duly appointed designee shall approve an application for a neighborhood district identifier sign if the following findings are made:

1. Maximum of two signs, of similar design, located in the established neighborhood commercial area.

2. The neighborhood commercial area shall be comprised of two or more storefront businesses on two or more separate properties.

3. The size, type and location of the sign(s) is compatible with the neighborhood commercial district in which the sign will be located.

26. Editor's Note: See the Table of Sign Regulations for Commercial, PUD and Industrial Districts, included as an attachment to this chapter.

4. The sign will enhance the identification of the established neighborhood commercial area and benefit all businesses.

5. Signs shall be located on private property.

6. Freestanding signs shall not exceed a maximum of six feet in height, 25 square feet in area and shall not create a visibility hazard for motorists or pedestrians.

7. Wall signs shall not exceed a maximum of 25 square feet in area and shall be placed on the front facade or side of a building.

b. Notice of the application shall be published and given to all owners as required by MCLA § 125.3502. The procedure for reviewing the application shall be as set forth in MCLA § 125.3502.

c. Appeals for decisions made under this section shall go to the Zoning Board of Appeals.

(3) A directional sign may be installed at commercial complexes for the purpose of directing traffic, in addition to other signs, with the following conditions:

a. The parcel shall contain two or more commercial/industrial buildings.

b. Signs shall be placed at the interior of the parcel and shall not be read from the public right-of-way.

c. One sign per parcel.

d. Maximum size of 12 square feet.

Sec. 39-354. C-3 Central Business District and the I-1 Zone District if it is a retail or restaurant use and located west of College Avenue and north of 9th Street — additional requirements. [Ord. No. 1100, 12-15-1993; Ord. No. 1188, 2-19-1997; Ord. No. 1356, 12-4-2002; Ord. No. 1373, 11-5-2003; Ord. No. 1451, 4-26-2006; Ord. No. 1509, 7-16-2008; 2-6-2013 by Ord. No. 1601; Ord. No. 1729; 6-6-2018 by Ord. No. 1739; 1-2-2019 by Ord. No. 1760; 2-6-2019 by Ord. No. 1763]

(a) Except for moveable freestanding signs and murals, all signs, awnings, canopies, marquees, and strings of lights in the C-3 Central Business District and in the I-1 Zone District if it is for a retail or restaurant use and is located west of College Avenue and north of 9th Street must first receive a certificate of appropriateness from the Design Review Board (DRB) prior to receiving a permit for construction or installation.

(b) The DRB shall consist of seven members to be appointed by the Downtown Development Authority (DDA). The DDA may act in this capacity if it so chooses.

(1) Of the seven members, at least three shall be members of the DDA.

(2) If available, the DDA shall appoint up to three members of the DRB who are members of the design profession, such as an architect or designer.

(3) If the DDA appoints a DRB, membership on the DRB shall be limited to two consecutive terms of four years each in duration. Initial staggering of terms shall be arranged.

(c) Prior to the issuance of a certificate of appropriateness, the DRB shall find that all of the following standards are met. These findings shall be documented by the DRB. Findings of the DRB are advisory and may be appealed to the Zoning Board.

(1) For purposes of interpretation, the DRB shall use the Secretary of the Interior standards and local design guidelines, as may from time to time be amended, and the context of surrounding buildings and signage in determining whether a proposed sign meets the following standards.

a. A sign shall be consistent with the architectural characteristics of the building upon which it is placed.

b. A sign shall not in any way obstruct or destroy unique architectural features of the building upon which it is placed nor of surrounding buildings.

(2) In the event of a denial of a certificate of appropriateness, the applicant may file an appeal with the Zoning Board for a public hearing. The Zoning Board will make a decision, based upon the standards herewith, regarding the appropriateness of the sign.

(d) An awning, canopy or marquee shall not project more than four feet beyond the face of a building, except that in the case of unique character of the building, the Design Review Board may recommend, as appropriate, the projection of an awning, canopy or marquee beyond four feet from the face of the building, when installed in accordance with state construction codes.

(e) Temporary moveable freestanding signs shall be removed from the City sidewalk and/ or public right-of-way one hour before a Tulip Time Festival parade and shall not be redisplayed until one hour after such parade.

(f) The total sign area permitted for all signs on a building in this zoning district shall not exceed two square feet for each linear foot of street or parking lot frontage of that building. For purposes of calculating total signage area, include: existing signage on or about the building on which the proposed sign(s) is (are) to be placed; those signs accessory to uses within that building which may be located on adjacent buildings, structures, or sites; and proposed signage, excluding moveable freestanding signs, temporary signs, and open flags.

(g) Other similar types of signs not specifically listed as permitted in the C-3 Central Business District and in the I-1 Zone District if it is for a retail or restaurant use and is located west of College Avenue and north of 9th Street and not specifically addressed in other provisions of this article may be permitted upon review and approval by the Design Review Board (DRB) for compliance with the following:

(1) Determination of most similar specified sign type. The DRB shall review the proposed other sign to determine whether the proposed other sign is similar to an allowed sign, and determine the most similar specified sign type allowed in the zone district.

(2) Size. The maximum area of such other sign(s) shall not exceed the maximum size permitted for the most similar specified sign type, as determined under Subsection (g)(1).

(3) Number of signs. The maximum number of such other signs shall not exceed the maximum number permitted for the most similar specified sign type, as determined under Subsection (g)(1) less the number of the most similar specified sign type on the property.

(4) Other requirements. Other signs shall satisfy the requirements of Sections 39-346 and 39-347. Appeals from determinations under this Section 39-354 shall be made in accordance with the provisions of Section 39-354(c).

(h) Wayfinding signs may be erected by the DDA, upon approval of the DRB, without a sign permit, under the following conditions:

(1) The purpose of the sign is to describe the location of specific businesses or areas in the C-3 Central Business District and in the I-1 Zone District if it is for a retail or restaurant use and is located west of College Avenue and north of 9th Street.

(2) Such signs shall not contain advertisements for individual business.

(3) Ground-mounted signs shall not exceed six feet in height and 24 square feet in total area.

(i) Strings of lights shall be allowed as permitted by Section 39-69 (17). Such lights shall be reviewed by the Design Review Board before they are installed in the C-3 Central Business District and the I-1 Zone District if it is a retail or restaurant use and located west of College Avenue and north of 9th Street. Such lights shall not be attached to any City property, such as lamp posts, utility poles, planters, benches, etc.

Sec. 39-355. Units of Measurement. [Ord. No. 1100, 12-15-1993; Ord. No. 1188, 2-19-1997; Ord. No. 1233, 12-16-1998; Ord. No. 1366, § 10, 8-20-2003; Ord. No. 1373, 11-5-2003; Ord. No. 1415, § 3, 6-1-2005; Ord. No. 1729; 6-6-2018 by Ord. No. 1739; 2-6-2019 by Ord. No. 1763]

Signs shall be measured as follows:

(a) A single-faced sign shall be measured within a single, continuous perimeter composed of either the smallest square, rectangle, or circle which encloses the extreme limits of writing, representation, emblem, logo, frame (if part of the sign) or any other figure of similar character.

(b) Framing around a sign shall be included in the overall sign calculation if it is an integral material or color to the sign.

(c) The support structure of a sign shall not be included in the overall area.

(d) A multifaced sign shall be calculated by measuring each sign face and adding all of them together.

(e) If two sign faces are placed back-to-back, this shall be measured and counted as one sign. If one of the sign faces is larger, the sign area shall be calculated using the larger of the two faces.

(f) If two sign faces are placed back-to-back and separated by more than a 45° angle, each face shall be calculated independently, and they shall be counted as a multifaced sign.

(g) The height of a sign shall be measured as the vertical distance from the highest point of the sign to the grade of the ground immediately beneath the sign.

Sec. 39-356. Adverse impact of article. [Ord. No. 1100, 12-15-1993; Ord. No. 1188, 2-19-1997; Ord. No. 1373, 11-5-2003; Ord. No. 1729; 6-6-2018 by Ord. No. 1739; 2-6-2019 by Ord. No. 1763]

Any person adversely affected by the provisions of this article, with the exception of those provisions contained in this article relating to licensing and permits, may apply for a variance from the provisions herein according to the procedures set forth in Article XII of this chapter, the terms of which are incorporated herein by reference.

Sec. 39-357. Savings clause. [Ord. No. 1100, 12-15-1993; Ord. No. 1188, 2-19-1997; Ord. No. 1373, 11-5-2003; Ord. No. 1427, 10-19-2005; Ord. No. 1459, § 1, 8-2-2006; Ord. No. 1478, § 2, 6-6-2007; 3-7-2018 by Ord. No. 1727; Ord. No. 1729; 6-6-2018 by Ord. No. 1739; 2-6-2019 by Ord. No. 1763]

If any section, subsection, sentence, clause or phrase of this Sign Ordinance is for any reason held to be invalid, such invalidity shall not affect the validity of enforceability of the remaining portions of this Sign Ordinance. The City Council hereby declares that it would have adopted the Sign Ordinance in each section, subsection, sentence or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

Sec. 39-358. Noncommercial messages on signs.. [Ord. No. 1100, 12-15-1993; Ord. No. 1188, 2-19-1997; Ord. No. 1373, 11-5-2003; Ord. No. 1451, 4-26-2006; Ord. No. 1487, 1-9-2008; Ord. No. 1501, § 1, 4-23-2008; Ord. No. 1729; 6-6-2018 by Ord. No. 1739; 2-6-2019 by Ord. No. 1763]

The provisions of this Article IX on signs shall not be construed to prohibit the owner of a sign otherwise lawfully constructed or existing under this Article IX to display noncommercial messages on a sign in any zone district.

Sec. 39-359. C-2 Highway Commercial District. [Ord. No. 1100, 12-15-1993; Ord. No. 1145, 5-24-1995; Ord. No. 1188, 2-19-1997; Ord. No. 1373, 11-5-2003; amended 2-6-2013 by Ord. No. 1601]

(a) Wall signs: The maximum total area for wall signs on each wall shall not exceed 10% of wall area of the wall upon which the sign or signs are placed.

(b) Freestanding signs.

(1) Number: one per lot or parcel except where street frontage exceeding 300 continuous linear feet, then two signs shall be permitted on that lot or parcel.

(2) Size: The total sign area shall not exceed one square foot for each linear foot of street frontage, and in no case shall the maximum sign area for a freestanding sign exceed 75 square feet. Properties located with street frontage on principal route U.S. 31 (excluding business routes) or Chicago Drive east of Waverly Road may have a freestanding sign which measures a maximum of 100 square feet.

(3) Location: Signs shall be located at least 12 feet from any property line.

(4) Height: Signs shall be no higher than 25 feet from the grade.

(c) Awning, canopy, and marquee signs. The total sign area shall not exceed one square foot for each linear foot of street frontage of the wall upon which the awning, canopy, or marquee is located. Signs shall be affixed flat to the awning, canopy, or marquee.

(d) Projecting signs:

(1) Number: one per building wall that faces a street or parking lot. A building having multiple commercial tenants is permitted more than one projecting sign on a street or parking lot frontage, provided that the number of projecting signs does not exceed one for each 25 feet of frontage and one per tenant.

(2) Size: Signs shall not exceed six square feet in area per sign.

(3) Location:

a. Signs shall not project more than 36 inches from the face of the building or wall, nor extend beyond the roof or eave line for a one-story building.

b. Signs shall maintain a clearance of eight feet from the sidewalk.

c. Signs shall be located below the window sill of the second floor window.

(e) Moveable freestanding signs:

(1) Permits:

a. No moveable freestanding signs shall be placed on private property unless the property owner or occupant first obtains an annual permit. Moveable freestanding signs shall not be placed on private property after an annual permit expires.

b. No moveable freestanding sign shall be placed in a public right-of-way.

c. An applicant shall apply for an annual permit. The permit shall be issued for a one-year term on the following conditions:

1. The applicant submits a completed application, including any addenda, on forms as required by the City and pays the fee and submits proof of general liability insurance as required by resolution of the City Council;

2. The applicant has not repeatedly violated the annual permit or ordinances pertaining thereto; and

3. The applicant presents an application found to be in full compliance with current zoning requirements.

d. The permit for a moveable freestanding sign is not a permanent right and is subject to revocation by the City.

(2) Number: one moveable freestanding sign per ground floor business.

(3) Attachment: The sign shall not be attached to a building, or secured to or placed in the ground, nor attached or secured to any element, including, but not limited to, trees, signs, light poles, planters, or other similar objects.

(4) Size. No moveable freestanding sign shall exceed 30 inches wide by 48 inches high by 30 inches deep, with height of the sign measured from the sidewalk or immediately adjacent grade.

(5) Location: At least one point of the sign shall be placed within one foot of the building.

(6) Obstruction: There shall be provided, at all times, an unobstructed, straight sidewalk aisle of not less than four feet in width. No moveable freestanding sign shall be placed in a manner that obstructs or impedes sidewalk snowplowing or cleaning. No moveable freestanding sign shall be placed in such a way as to create a visibility hazard for vehicular, bicycle and/or pedestrian traffic.

(7) Construction: All moveable freestanding signs shall be constructed of wood, metal, or other similarly durable material. Such signs shall have adequate support to prevent tipping or movement of the sign, and shall not present a tripping hazard to pedestrians. A moveable freestanding sign shall be designed to be placed and removed during certain hours.

(8) Illumination: Moveable freestanding signs shall not be illuminated.

(9) Limitations on display: Moveable freestanding signs shall be displayed only during the hours the business it promotes is open. The entire sign structure, including sign panel and supporting structure, shall be removed and placed indoors during those hours not on display.

(f) Open flags: open flags subject to the requirements of Section 39-354(f).

Sec. 39-360. C-3 Central Business District. [Ord. No. 1100, 12-15-1993; Ord. No. 1188, 2-19-1997; Ord. No. 1200, 10-22-1997; Ord. No. 1251, 7-7-1999; Ord. No. 1373, 11-5-2003]

(a) Design Review Board. Except for moveable freestanding signs, all signs, awnings, canopies, and marquees in the C-3 Central Business District must first receive a certificate of appropriateness from the Design Review Board ("DRB") prior to receiving a permit for construction or installation.

(b) Membership. The DRB shall consist of seven members to be appointed by the Downtown Development Authority (DDA). The DDA may act in this capacity if it so chooses. **[Amended 5-3-2017 by Ord. No. 1689[**

(1) Of the seven members, at least three shall be members of the DDA.

(2) If available, the DDA shall appoint up to three members of the DRB who are members of the design profession, such as an architect or designer.

(3) If the DDA appoints a DRB, membership on the DRB shall be limited to two consecutive terms of four years each in duration. Initial staggering of terms shall be arranged.

(c) Standards for certificate of appropriateness. Prior to the issuance of a certificate of appropriateness, the DRB shall find that all of the following standards are met. These findings shall be documented by the DRB. Findings of the DRB are advisory and may be appealed to the Zoning Board.

(1) For purposes of interpretation, the DRB shall use the Secretary of the Interior standards and local design guidelines, as may from time to time be amended, and the context of surrounding buildings and signage in determining whether a proposed sign meets the following standards.

a. A sign shall be consistent with the architectural characteristics of the building upon which it is placed.

b. A sign shall not in any way obstruct or destroy unique architectural features of the building upon which it is placed nor of surrounding buildings.

(2) In the event of a denial of a certificate of appropriateness, the applicant may file an appeal with the Zoning Board for a public hearing. The Zoning Board will make a decision, based upon the standards herewith, regarding the appropriateness of the sign.

(d) [Size.] The total sign area permitted for all signs on a building in this zoning district shall not exceed two square feet for each linear foot of street or parking lot frontage of that building. For purposes of calculating total signage area, include: existing signage on or about the building on which the proposed sign(s) is (are) to be placed; those signs accessory to uses within that building which may be located on adjacent buildings, structures, or site; and proposed signage, excluding moveable freestanding signs, temporary signs, and open flags.

Sec. 39-361. Signs permitted in the C-3 District. [Ord. No. 1100, 12-15-1993; Ord. No. 1188, 2-19-1997; Ord. No. 1253, 8-4-1999; Ord. No. 1373, 11-5-2003; Ord. No. 1440, 2-1-2006; Ord. No. 1485, 11-20-2007; Ord. No. 1497, 3-19-2008; amended 9-4-2013 by Ord. No. 1616]

The following signs are permitted in the C-3 District:

(a) Wall signs.

(1) Size. The maximum area of wall signs may not exceed one square foot of sign area for each one foot of building length of the wall upon which the signs are to be located, not to exceed 32 square feet. The DRB may approve additional signs or sign area where the building has multiple ground floor tenants; where the character, placement and size satisfy otherwise applicable compatibility standards; and the total maximum area of wall signs on that wall does not exceed 64 square feet.

(2) Location. Wall signs must be placed below the sill of a building's second floor windows. The DRB may waive this limitation if it finds that the proposed sign placed at a higher location on a building will be compatible with the character and design of the building on which it is placed and compatible with other legal and conforming signage, both on the building and on adjoining properties. Wall signs shall be contained within the boundaries of a wall.

(b) Projecting signs.

(1) Number: one per building wall which faces a street or parking lot. A building having multiple commercial tenants is permitted more than one projecting sign on a street or parking lot frontage, provided that the number of projecting signs does not exceed one for each 25 feet of frontage.

(2) Size. Signs shall not exceed six square feet in area per sign.

(3) Location.

a. Signs shall not project more than 36 inches from the face of the building or wall.

b. Signs shall maintain a clearance of eight feet from the sidewalk.

c. Signs shall be located below the window sill of the second floor window. The DRB may waive this limitation if it finds that the proposed sign placed at a higher location on a building will be compatible with the character and design of the building on which it placed and compatible with other legal and conforming signage, both on the building and on adjoining properties.

(c) Awnings, canopies and marquees and any signage integral with these features.

(1) Projection. An awning or canopy shall not project more than four feet beyond the face of a building, except that in the case of unique character of the building, the Design Review Board may recommend as appropriate the projection of an awning or canopy beyond four feet from the building face, installed in accordance with state construction codes.

(2) Location. The awning or canopy shall not extend over the vertical columns on either side of the first floor level.

(3) Signage. One sign is permitted on a face of an awning, canopy, or marquee. The total sign area shall not exceed two square feet for each linear foot of street or parking lot frontage of the wall upon which the awning, canopy, or marquee is located. Signs shall be affixed flat to the awning, canopy, or marquee.

(d) Freestanding signs.

(1) Number: one sign per parcel.

(2) Size. Each sign shall be no greater than 32 square feet, except that signs up to 36 square feet in area are allowed in the C-3 District outside the area defined and enclosed by the center lines of 7th Street, Lincoln Avenue, 9th Street and Pine Avenue.

(3) Location. Signs shall be set back at the minimum building setback for the zone district, but in no case shall the sign obstruct pedestrian movement in the C-3 Central Business District.

(4) Height: no higher than six feet from the grade, except that signs up to nine feet in height are allowed in the C-3 District outside the area defined and enclosed by the center lines of 7th Street, Lincoln Avenue, 9th Street and Pine Avenue.

(e) Moveable freestanding signs.

(1) Permits.

a. No moveable freestanding signs shall be placed on public or private property unless the property owner or occupant first obtains an annual permit. Moveable freestanding signs shall not be placed on public or private property after an annual permit expires.

b. No moveable freestanding sign shall be placed in a public right-of-way, except as allowed by an annual permit.

c. An application for a moveable freestanding sign will be filed with the Department of Community and Neighborhood Services. The permit shall be issued for a one-year term if the following are satisfied:

1. The applicant submits a completed application, including any addenda, on forms as required by the City and pays the fee and submits proof of general liability insurance as required by resolution of the City Council;

2. The applicant has not repeatedly violated the annual permit or violated any ordinance of the City; and

3. The applicant presents an application found to be in full compliance with the City's Zoning Ordinance.

The Department of Community and Neighborhood Services shall approve or deny an application within 15 days of when it receives a completed application satisfying these provisions.

d. The permit for a moveable freestanding sign is not a permanent right and is subject to revocation by the City.

(2) Design. A moveable freestanding sign shall be designed to be placed and removed during certain hours. A moveable freestanding sign shall be of a scale and design intended for viewing from the public right-of-way.

(3) Number: one moveable freestanding sign per ground floor business. Businesses above the ground floor are permitted to have a moveable freestanding sign as long the number of signs does not exceed one sign per ground floor business in each building. For example, if a building has three ground floor businesses, there may be three moveable freestanding signs permits issued regardless of whether they are for ground floor businesses or ones above the ground floor.

(4) Attachment. The sign shall not be attached to a building, or secured to or placed in the ground, nor attached or secured to any element, including but not limited to trees, signs, light poles, planters, or other similar objects.

(5) Size. No moveable freestanding sign shall exceed 30 inches wide by 48 inches high by 30 inches deep, with height of the sign measured from the sidewalk or immediately adjacent grade.

(6) Location. At least one point of the moveable sign shall be placed within one foot of the building. A moveable freestanding sign shall be placed within the public right-of-way on the same side of the street or alley and within lot line extensions of the business it promotes or the building the business is located in, or on the parcel of the business it promotes.

(7) Obstruction. There shall be provided, at all times, an unobstructed, straight sidewalk aisle of not less than six feet in width. No moveable freestanding sign shall be placed in a manner that obstructs or impedes sidewalk plowing or cleaning. No moveable freestanding sign shall be placed in such a way as to create a visibility hazard for vehicular, bicycle and/or pedestrian traffic.

(8) Construction. All moveable freestanding signs shall be constructed of wood, metal, or other similarly durable material. Moveable freestanding signs shall have adequate support to prevent tipping or movement of the sign, and shall not present a tripping hazard to pedestrians.

(9) Illumination. Moveable freestanding signs shall not be illuminated.

(10) Limitations on display.

a. Moveable freestanding signs shall be displayed only during the hours the business it promotes is open.

b. The entire sign structure, including sign panel and supporting structure, shall be removed and placed indoors during those hours not on display.

c. Moveable freestanding signs shall not be displayed one hour before a Tulip Time Festival parade, during such parade, and one hour after such parade.

(f) Open flags. Open flags subject to the requirements of Section 39-354(f).

(g) Other signs. Other similar types of signs not specifically listed as permitted in the C-3 Central Business District and not specifically addressed in other provisions of this article may be permitted upon review and approval by the Design Review Board (DRB) for compliance with the following:

(1) Determination of most similar specified sign type. The DRB shall review the proposed other sign to determine whether the proposed other sign is similar to an allowed sign, and determine the most similar specified sign type allowed in the zone district.

(2) Size. The maximum area of such other sign(s) shall not exceed the maximum size permitted for the most similar specified sign type, as determined under Subsection (g)(1).

(3) Number of signs. The maximum number of such other signs shall not exceed the maximum number permitted for the most similar specified sign type, as determined under Subsection (g)(1) less the number of the most similar specified sign type on the property.

(4) Other requirements. Other signs shall satisfy the requirements of Section 39-360(c). Appeals from determinations under this Section 39-361(g) shall be made in accordance with the provisions of Section 39-360(c).

(h) Directional signs.

(1) Directional signs describing the location of specific businesses in the C-3 Central Business District may be erected by the DDA upon approval by the DRB.

(2) Such signs shall not contain advertisements for business.

(3) Ground-mounted signs are permitted in the C-3 District only as directional signs and shall not exceed six feet in height, 24 square feet in total area.

Sec. 39-362. C-4 Regional Shopping Center District. [Ord. No. 1100, 12-15-1993; Ord. No. 1188, 2-19-1997; Ord. No. 1373, 11-5-2003]

(a) Wall signs: The maximum sign area for wall signs may not exceed 10% of the wall area upon which the sign is placed.

(b) Freestanding signs:

(1) Number: One sign per lot or parcel, except for a street frontage exceeding 300 continuous linear feet in which case two such signs shall be permitted on that lot or parcel.

(2) Size: One square foot per each one foot of the street frontage along which the sign(s) is to be located and in no case shall the maximum sign area for a freestanding sign exceed 75 square feet. Properties located with street frontage on principal route U.S. 31 (excluding business routes); or Chicago Drive east of Waverly Road, may have a freestanding sign which measures a maximum of 100 square feet.

(3) Location: A minimum of 25 feet from any property line or a distance equal to the height of the sign, whichever is greater.

(4) Height: The sign shall be no higher than 25 feet from the grade.

(c) Awning, canopy, and marquee signs: The total sign area shall not exceed two square feet for each linear foot of street or parking lot frontage of the wall upon which the awning, canopy, or marquee is located. Signs shall be affixed flat to the awning, canopy, or marquee.

(d) Projecting signs:

(1) Number: One per building wall which faces a street or parking lot. A building having multiple commercial tenants is permitted more than one projecting sign on a street or parking lot frontage provided that the number of projecting signs does not exceed one for each 25 feet of frontage and one per tenant.

(2) Size: Signs shall not exceed six square feet in area per sign.

(3) Location:

a. Signs shall not project more than 36 inches from the face of the building or wall, nor extend beyond the roof or eave line for a one story building.

b. Signs shall maintain a clearance of eight feet from the sidewalk.

c. Signs shall be located below the window sill of the second floor window.

Sec. 39-363. C-5 Professional Office Service District. [Ord. No. 1271, § 5, 2-2-2000; Ord. No. 1373, 11-5-2003; Ord. No. 1501, § 2, 4-23-2008]

The following provisions shall apply to signs in the C-5 Professional Office Service District:

(a) Wall signs:

(1) Number: The maximum number of signs shall not exceed one per tenant street frontage or parking lot frontage.

(2) Size: The maximum area for all wall signs per building may not exceed one square foot of sign area for each one foot of building length of the wall upon which the sign is to be displayed.

(b) Awning, canopy, and marquee signs:

(1) Size: The total sign area shall not exceed one square foot for each linear foot of street frontage of the wall upon which the awning, canopy, or marquee is located.

(2) Location: Signs shall be affixed flat to the awning, canopy, or marquee.

(c) Projecting signs:

(1) Number: One per building wall that faces a street or parking lot. A building having multiple commercial tenants is permitted more than one projecting sign on a street or parking lot frontage provided that the number of projecting signs does not exceed one for each 25 feet of frontage and one per tenant.

(2) Size: Signs shall not exceed six square feet in area per sign.

(3) Location:

a. Signs shall not project more than 36 inches from the face of the building or wall, nor extend beyond the roof or eave line for a one-story building.

b. Signs shall maintain a clearance of eight feet from the sidewalk.

c. Signs shall be located below the windowsill of the second floor window.

(d) Freestanding signs:

(1) Number: One sign per property.

(2) Size: Properties with frontage on a street that has a posted speed limit of 35 miles per hour or less shall have a maximum freestanding sign area of 25 square feet. Properties with frontage on a street that has a posted speed limit of greater than 35 miles per hour shall have a maximum freestanding sign area of 50 square feet.

(3) Location: Signs shall be located a minimum of five feet from any property line.

(4) Height: Signs shall be no higher than five feet from the grade.

Sec. 39-364. I-1 and I-2 Industrial Districts. [Ord. No. 1100, 12-15-1993; Ord. No. 1188, 2-19-1997; Ord. No. 1271, § 4, 2-2-2000; Ord. No. 1373, 11-5-2003]

The following provisions shall apply to signs located in the I-1 and I-2 Industrial District:

(a) Maximum area: The maximum area for all signs shall not exceed two square feet per each linear foot of street frontage.

(b) Temporary signs or banners: Temporary signs or banners for business promotions are permitted subject to a sign permit provided:

(1) Signs be displayed no longer than 14 consecutive days;

(2) Signs occur not more than twice in any calendar year;

(3) Signs comply with yard and height requirements for other signs in the zoning district;

(4) The total sign area for such signs shall not exceed an amount equal to the maximum sign area permitted in the applicable zoning district.

(c) Wall signs: The maximum area for wall signs may not exceed 10% of wall area upon which the sign is placed.

(d) Freestanding signs:

(1) Number: One sign per lot or parcel, except for a street frontage exceeding 300 continuous linear feet in which case two signs shall be permitted along that frontage.

(2) Size: The sign shall not exceed one square foot for each one foot of street frontage along which the sign(s) is to be located and in no case exceed 75 square feet.

(3) Location: A minimum of 25 feet from any property line.

(4) Height: The sign shall not exceed 10 feet in height.

(e) Awning, canopy, and marquee signs: The total sign area shall not exceed two square feet for each linear foot of street or parking lot frontage of the wall upon which the awning, canopy, or marquee is located. Signs shall be affixed flat to the awning, canopy, or marquee.

Sec. 39-365. Adverse impact of article. [Ord. No. 1100, 12-15-1993; Ord. No. 1188, 2-19-1997; Ord. No. 1271, § 4, 2-2-2000; Ord. No. 1373, 11-5-2003]

Any person adversely affected by the provisions of this article, with the exception of those provisions contained in this article relating to licensing and permits, may apply for a variance from the provisions herein according to the procedures set forth in Article XII of this chapter, the terms of which are incorporated herein by reference.

Sec. 39-366. Noncommercial messages on signs. [Ord. No. 1309, 8-1-2001;[27] Ord. No. 1373, 11-5-2003]

The provisions of this Article IX on signs shall not be construed to prohibit the owner of a sign otherwise lawfully constructed or existing under this Article IX to display noncommercial messages on a sign in any zone district.

Sec. 39-367. through Sec. 39-369. (Reserved)

ARTICLE X
(Reserved)[28]

Sec. 39-370. through Sec. 39-384. (Reserved)

ARTICLE XI
Administration and Enforcement Generally

Sec. 39-385. Building permit—required; prerequisites to issuance of permits. [Ord. No. 464, § 9-1.20; Ord. No. 1188, 2-19-1997]

No person shall commence excavation for, construction of, or demolition of any building, structure or parking area, or make structural changes in any existing building or structure, without first obtaining a building permit from the Building/Zoning Administrator. No permit shall be issued for the construction, alteration or remodeling of any building or structure until an application has been submitted in accordance with provisions of this chapter, showing that

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27. Editor's Note: This ordinance also repealed former Section 39-366, which pertained to billboards and off-premises advertising signs, adopted 12-15-1999 by Ord. No. 1100, as amended 2-19-1997 by Ord. No. 1188, 3-4-1998 by Ord. No. 1208, and 2-2-2000 by Ord. No. 1271.

28. Editor's Note: Former Article X, which pertained to flood damage prevention, adopted by Ord. No. 724, as amended 9-19-1990 by Ord. No. 1001 and 2-19-1997 by Ord. No. 1188, was repealed 11-16-2011 by Ord. No. 1572.

the construction proposed is in compliance with the provisions of this chapter and with Chapter 6 and Article I of Chapter 14. No plumbing, electrical, or mechanical permit shall be issued until the Building/Zoning Administrator has determined that the plans and designated use indicate that the structure and premises, if constructed as planned and proposed, will conform with the provisions of this Code.

Sec. 39-386. Application; plans and specifications. [Ord. No. 464, § 9-1.20; Ord. No. 1188, 2-19-1997]

Every application for a building permit shall be made as required by the building code of the City and shall designate the existing or intended use of the structure or premises or part thereof which it is proposed to alter, erect or extend, and the number of dwelling units, if any, to occupy it. The application shall be accompanied by two ink, blueprint or photostat copies of drawings, drawn to scale showing the actual lines, angles and dimensions of the lot to be built upon or used, and the exact size and location on the lot of all existing and proposed structures and uses, together with specifications. The application shall contain other information with respect to the structure, lot and adjoining property as may be required by the Building/Zoning Administrator. One copy of both plans and specifications shall be filed in and retained by the office of the Building/Zoning Administrator, and the other shall be delivered to the applicant when the Building/Zoning Administrator has approved the application and issued the permit. In cases of minor alterations, the Building/Zoning Administrator may waive portions of the foregoing requirements obviously not necessary for determination of compliance with this chapter.

Sec. 39-387. Powers and duties of Building/Zoning Administrator. [Ord. No. 464, § 9-1.20; Ord. No. 1188, 2-19-1997]

Except as otherwise provided in this chapter, the Building/Zoning Administrator shall administer and enforce this chapter including the receiving of applications, the inspection of premises and the issuing of building permits.

Sec. 39-388. Inspection and approval prerequisite to occupancy. [Ord. No. 464, § 9-1.20; Ord. No. 881; Ord. No. 1188, 2-19-1997]

It shall be unlawful to use or permit the use of any structure or premises hereafter altered, extended or erected until the Building/Zoning Administrator shall have made an inspection of the premises and shall have approved the same for occupancy.

Sec. 39-389. Violations declared nuisances; penalty; continuing offenses. [Ord. No. 464, § 9-1.20; Ord. No. 881; Ord. No. 1188, 2-19-1997]

Any building erected, altered, moved, razed or converted, or any use carried on, in violation of any provision of this chapter is hereby declared to be a nuisance per se. Any person, firm or corporation who or which violates, disobeys, omits, neglects or refuses to comply with any of the provisions of this chapter shall be punished as provided in Section 1-10, except as otherwise provided in this chapter. Each day that a violation is permitted to exist shall constitute a separate offense.

Sec. 39-390. Moratorium on the establishment of a medical marihuana dispensary. [Ord. No. 1550, 8-4-2010; Ord. No. 1560, 2-16-2011; Ord. No. 1563, 5-18-2011]

(1) Definition. For purposes of this Section 39-390, the term "medical marihuana dispensary" shall mean real property used to engage in (a) the acquisition, possession, cultivation, manufacture, use, delivery, transfer, or transportation of marihuana or paraphernalia relating to the use of marihuana, or (b) otherwise assisting a qualified patient (as defined in MCLA § 333.26423) or other person with the medical use of marihuana. Notwithstanding the foregoing, a medical marihuana dispensary shall not include real property used with the owner's written consent if the property is (a) a primary caregiver's principal residence and is used by only one resident primary caregiver, or (b) a qualified patient's principal residence and is used only by qualified patients residing at the property.

(2) Purpose and findings.

a. The state has adopted statutory provisions in MCLA § 333.26421, et seq., that authorize the creation of "medical marihuana dispensaries" for the delivery or sale of marihuana to persons with "debilitating medical conditions" but subject to certain conditions and restrictions.

b. Prior to adopting the statutory provisions, such activity was deemed unlawful in Michigan and under federal law.

c. The City of Holland enacted a moratorium on medical marihuana dispensaries for the period ending May 25, 2011. During the moratorium, the City of Holland's Planning Commission conducted a public hearing and recommended a zoning ordinance to the City Council.

d. The City of Holland finds that it needs additional time to examine the Planning Commission's recommendation and determine the appropriate zoning regulations for medical marihuana dispensaries including, but not limited to, determining (i) where such dispensaries are permitted, and (ii) the appropriate terms of such regulations to address the specific issues that arose with the legalization of the use of medical marihuana.

e. The City of Holland finds that an additional three months is a reasonable time for the moratorium.

(3) Temporary moratorium. For a period of three months from May 25, 2011, no medical marihuana dispensary shall be established or created and no existing medical marihuana dispensary shall be expanded in any zone district for the City of Holland. No permits shall be issued to establish, create or expand a medical marihuana dispensary. Upon the expiration of three months from May 25, 2011, this Section 39-390 shall expire and shall be of no force and effect.

Sec. 39-391. through Sec. 39-399. (Reserved)

ARTICLE XII
Zoning Board of Appeals

Sec. 39-400. Continued; composition; appointment and terms of members; filling vacancies. [Ord. No. 464, § 9-1.21; Ord. No. 1188, 2-19-1997; Ord. No. 1461, 9-6-2006; Ord. No. 1555, 12-1-2010]

The Zoning Board of Appeals, consisting of six members, heretofore established by Ordinance No. 358 of the City, as amended by Ordinance No. 454, pursuant to the provisions of Act No. 110 of the Public Acts of 2006, is hereby continued. The members of such Zoning Board of Appeals shall be appointed by the City Council. The City Council may appoint alternate members to the Zoning Board of Appeals. The members selected by the City Council shall be representative of the population distribution and of the various interests represented in the City. One of the regular members of the City Planning Commission may be a member of the Zoning Board of Appeals. One regular member of the Zoning Board of Appeals may be a member of the City Council, but shall not serve as chairperson of the Zoning Board of Appeals.

The City Council may appoint not more than two alternate members for the same term as regular members to the Zoning Board of Appeals. An alternate member may be called as specified to serve as a member of the Zoning Board of Appeals in the absence of a regular member if the regular member will be unable to attend one or more meetings. An alternate member may also be called to serve as a member for purposes of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest. The alternate member appointed shall serve in the case until a final decision is made. The alternate member has the same voting rights as a regular member of the Zoning Board of Appeals.

Existing and future terms of office shall terminate on June 30 of each respective year of expiration. Each term of office shall be for a period of three years commencing with July 1 of the year of appointment, except for appointments to fill vacancies which shall be for the remainder of the unexpired term.

Sec. 39-401. Officers. [Ord. No. 464, § 9-1.21; Ord. No. 1188, 2-19-1997; Ord. No. 1461, 9-6-2006; amended 10-7-2015 by Ord. No. 1657]

At its first meeting in July of each year, the Zoning Board of Appeals shall elect from its membership a chairperson (except the chairperson shall not be a member of the City Council), a vice-chairperson, and such other officers as it may deem necessary. The Clerk of the Zoning Board of Appeals shall be designated by Council, subject to the requirements of the Holland City Charter.

Sec. 39-402. Rules; regulations; meetings; quorum; acting by resolution; concurring vote required to reverse, etc.; minutes and records; assistance from City departments. [Ord. No. 464, § 9-1.21; Ord. No. 1188, 2-19-1997; Ord. No. 1461, 9-6-2006]

The Zoning Board of Appeals shall adopt appropriate rules and regulations which shall include and supplement the following rules of procedure:

(a) Copies of regulations to be made available. Copies of such regulations shall be made available to the public at the office of the City Clerk.

(b) Meetings. Meetings of the Zoning Board of Appeals shall be held once each month and at such additional times as Zoning Board of Appeals may determine. The time of regular meetings shall be specified in the rules and regulations. There shall be a fixed place of meeting and all hearings shall be open to the public.

(c) Quorum; to act by resolution; concurring vote required to reverse, etc. The presence of four members shall constitute a quorum. In the absence of a quorum at any regular or special meeting, a majority vote of members present shall be sufficient to adjourn such meeting to a later date. The Zoning Board of Appeals shall act by resolution. The concurring vote of four members of Zoning Board of Appeals shall be necessary to reverse any order, requirement, decision or determination of the Building/Zoning Administrator, or to decide in favor of the applicant on any matter upon which it is required to pass by this chapter, or to grant variances from the requirements of this chapter.

(d) Minutes and records. The Zoning Board of Appeals shall keep minutes of its proceedings showing the action of the Zoning Board of Appeals and the vote of each member upon each question, or if absent or failing to vote indicating such fact, and in the case of a failure to vote the reasons therefore, and shall keep records of its examinations and other official action, all of which shall be filed promptly in the office of the City Clerk and shall be a public record.

(e) Assistance from City departments. The Zoning Board of Appeals may call on any City department for assistance in the performance of its duties and it shall be the duty of such departments to render such assistance to Zoning Board of Appeals as may reasonably be required.

Sec. 39-403. Jurisdiction and powers generally. [Ord. No. 464, § 9-1.21; Ord. No. 1188, 2-19-1997; Ord. No. 1461, 9-6-2006]

The Zoning Board of Appeals, in conformity with the provisions of this chapter and of Act No. 110 of the Public Acts of 2006, as amended, shall have the jurisdiction and power to decide questions that arise in the administration of the zoning ordinance, including the interpretation of the Zoning Map. The Zoning Board of Appeals shall also hear and decide on matters referred to the Zoning Board of Appeals, or upon which the Zoning Board of Appeals is required to pass under a zoning ordinance adopted under Act 110 of the Public Acts of 2006. It shall herein decide appeals from and review any administrative order, requirement, decision, or determination made by an administrative officer or body charged with enforcement of the zoning ordinance.

Sec. 39-404. Variances generally—allegations, etc. [Ord. No. 464, § 9-1.21; Ord. No. 1188, 2-19-1997; Ord. No. 1461, 9-6-2006]

The Zoning Board of Appeals, after public hearing shall have the power to decide and grant use and non-use or dimensional variances. Non-use or dimensional variances shall be only granted relating to the construction, structural changes, or alteration of buildings or structures related to dimensional requirements of the zoning ordinance or to any other non-use related standards in the ordinance if an applicant shows that there are practical difficulties in the way of carrying out the strict letter of the zoning ordinance. The standards for non-use variance are delineated as follows:

(a) For dimensional and non-use variances: A dimensional variance or non-use variance may be granted by the Zoning Board of Appeals only when the applicant demonstrates, in the official record of the public hearing, that practical difficulty exists by showing all of the following:

(1) That the need for the requested variance is due to unique circumstances or physical conditions of the property involved, such as narrowness, shallowness, shape, water, or topography and is not due to the applicant's personal or economic difficulty.

(2) That the need for the requested variance is not the result of actions of the property owner or previous property owners (self-created).

(3) That strict compliance with regulations governing area, setback, frontage, height, bulk, density, or other dimensional requirements will unreasonably prevent the property owner from using the property for a permitted purpose, or will render conformity with those regulations unnecessarily burdensome.

(4) That the requested variance is the minimum variance necessary to do substantial justice to the applicant as well as to other property owners in the district.

(5) That the requested variance will not cause an adverse impact on surrounding property, property values, or the use and enjoyment of property in the neighborhood or zoning district.

Use variances or variances from uses of land may be granted if an applicant shows unnecessary hardship in the way of carrying out the strict letter of the zoning ordinance. The standards for granting use variances are delineated as follows:

(b) For use variances: a use variance may be granted by the Zoning Board of Appeals only in cases where the applicant demonstrates in the official record of the public hearing that undue hardship exists by showing all of the following:

(1) The building, structure, or land cannot be reasonably used for any of the uses permitted by right or by special use permit in the zoning district in which it is located.

(2) That the need for the requested variance is due to unique circumstances or physical conditions of the property involved, such as narrowness, shallowness, shape, water, or topography and is not due to the applicant's personal or economic hardship.

(3) That the proposed use will not alter the essential character of the neighborhood.

(4) That the need for the requested variance is not the result of actions of the property owner or previous property owner (self-created).

If the demand for appeal is for a variance, the Zoning Board of Appeals shall either grant, grant with conditions, or deny the application. The Appeals Board may reverse or affirm, wholly or partly, or modify the order, requirement, decision, or determination and may issue or direct the issuance of a permit. The decision of the Zoning Board of Appeals shall be in writing and reflect the reasons for the decision. At a minimum, the record of the decision of the Zoning Board of Appeals shall include formal determination of the facts and the conclusions derived from the facts (reasons for the decision); and the decision. Any person aggrieved by such decision shall have the right to appeal to circuit court within 30 days of the certified decision of the Zoning Board of Appeals, as provided by law.

Sec. 39-405. Special exceptions generally. [Ord. No. 464, § 9-1.21; Ord. No. 669; Ord. No. 1188, 2-19-1997; Ord. No. 1374, § 1, 11-19-2003; Ord. No. 1422, 9-7-2005; Ord. No. 1461, 9-6-2006; Ord. No. 1510, 7-16-2008]

The Zoning Board of Appeals, after public hearing, shall have the power to grant the special exceptions heretofore authorized by this chapter and, in addition, may authorize the following:

(a) The vertical extension of a building existing at the time of enactment of this chapter to such height as the original drawings of such building indicated, where such building was actually designed and constructed to carry the additional stories necessary for such height limit;

(b) Permit the erection or structural alteration in a district where such use is permitted of a grain elevator, gas holder or other industrial structure to a height over the limit specified for such district;

(c) Permit additions or enlargements along or within existing setback lines of existing buildings, conforming in use, in the side or rear yards only, where such encroachment is in character with the existing neighborhood and will not be detrimental to adjoining properties or to the neighborhood, and provided further that such construction shall fully comply with the building code of the City.

(d) Permit reductions in fence setbacks for corner residential lots where the rear yard of a property adjoins the rear yard of another property. The Board may permit the reduction in setback requirements for fences up to six feet in height in a rear yard or side yard on a side street to no less than five feet when the following findings are made: Adequate sight distance and safety can be maintained with respect to pedestrian and street traffic; and no substantial detriment to neighboring properties would be created thereby.

Sec. 39-405.1. thorough 39-405.2. (Reserved)[29]

Sec. 39-406. Conversion of and accommodations within buildings and dwellings: Roomers, boarders, fraternities and sororities. [Ord. No. 1185, 9-6-1996; Ord. No. 1188, 2-19-1997; Ord. No. 1461, 9-6-2006]

(a) The conversion of an existing building to allow for two or more roomers or boarders or fraternities and sororities, and the accommodation of the same within an existing building shall be permitted only as a special exception, when approved by the Zoning Board of Appeals, following notification of property owners in accordance with Section 39-408, and upon the finding of compliance with the following criteria and standards:

(1) An applicant seeking permission for a special exception shall submit a dimensioned site plan delineating areas designated for improved or unimproved off-street parking, and a dimensioned building floor plan clearly delineating areas to be accessible by the roomer(s) or boarder(s) or student(s) and physical changes which will be made to the building in order to accommodate the roomer(s) or boarder(s) or student(s). An applicant proposing exterior alterations or additions to the building or dwelling shall submit drawings or renderings describing and delineating the proposed improvements. Approval by the Zoning Board of Appeals shall be conditioned upon strict compliance with an approved plan covering parking and building alterations.

(2) The Zoning Board of Appeals may permit the special exception if all of the following are satisfied:

a. The property conforms in all respects with housing, building, plumbing, heating, and electrical codes, including the historic district regulations, zoning ordinances, and any other codes or regulations of the City applicable to the creation, operation, or rental of residential dwelling units. The property shall be inspected prior to the approval of the special exception and shall be inspected thereafter as required by the Housing Property Maintenance Code of the City.

b. The floor area of the dwelling, exclusive of basement or attic space, is at least 200 square feet per roomer, boarder or student. Individual sleeping rooms shall have interior access to common areas including living and kitchen areas.

c. For two or more roomers, boarders, or students, in addition to the minimum lot area otherwise required for the use in the specific zone, a lot area of at least 2,000 square feet is provided for each roomer, boarder or student.

d. Utilities shall not be separately metered for each sleeping room.

29. Editor's Note: Former Secs. 39-405.1, Special exceptions to approve owner-occupied short-term rentals, added 8-3-2016 by Ord. No. 1674, and 39-405.2, Special exceptions to approve non-owner-occupied short-term rentals in the C1, C-2, C-3, PRD, and PUD Zone Districts, added 10-18-2017 by Ord. No. 1697, were repealed by Ord. No. 1732.]

e. For existing residential structures, no structural or substantial physical changes shall be made which prevent reasonable conversion of the property to single-family or multifamily use as otherwise permitted within this zone.

f. No special exception shall be allowed which involves exterior alterations or additions which are not architecturally harmonious and compatible with the structure which will accommodate the roomer(s) and boarder(s) or student(s), or with other residential structures in the general vicinity.

g. The Zoning Board of Appeals shall determine that the proposed special exception is compatible with the uses of the adjacent and adjoining property; because of the increased use, density, and proposed off-street parking layout; that the proposed special exception will not encourage such special exception uses in the zone district to the detriment of existing and established uses; and such other considerations deemed relevant by the Zoning Board of Appeals based upon the proposed special exception and the existing and established uses in order to protect the health, safety, and welfare of surrounding properties.

(3) In the event the Zoning Board of Appeals grants the special exception, the Zoning Board of Appeals shall determine the amount, placement, and specification of paving as a condition to the grant of the special exception, considering the increased use, density, and safety of vehicular traffic movements on the subject property pursuant to the requirements of Section 39-27. No parking shall be permitted within a front yard nor side yard on a side street. A minimum of 50% of the remaining side and rear yards shall remain as green space. No parking shall occur within two feet of the property lines unless approved by the Zoning Board of Appeals. The access drive for the special exception use shall not be a joint or shared driveway with an adjacent property.

(4) The Zoning Board of Appeals may approve the special exception subject to additional conditions or restrictions as it deems necessary to assure compatibility with adjoining or nearby residential property, or to protect the health, safety, and general welfare.

(5) In the event the Zoning Board of Appeals grants the approval of the special exception, the findings of the Zoning Board of Appeals shall be recorded for the property with the register of deeds of Ottawa County or Allegan County. A special exception shall not be deemed effective until the applicant has recorded these findings and presented evidence of the recording to the City Zoning Administrator. No expansion or addition to the special exception shall be permitted without prior approval of the Zoning Board of Appeals. Any fees incurred for compliance with this section shall be paid by the applicant.

(b) The accommodation within an existing building of one roomer or boarder shall be permitted only as a special exception, approved by the Zoning Administrator or his/her designee, upon the finding of compliance with the criteria and standards described in Subsections (a)(1), (a)(2)a.-f., (a)(3), and (a)(4) above. For a single roomer or boarder, the Zoning Administrator may waive specific submission requirements where it is determined that such information is unnecessary to reach a determination. The Zoning

Administrator may require an applicant applying for a single roomer or boarder to apply to the Zoning Board of Appeals for determination of compliance.

Sec. 39-407. Additional conditions for approval of variance or exception. [Ord. No. 464, § 9-1.21; Ord. No. 1188, 2-19-1997; Ord. No. 1461, 9-6-2006]

In authorizing a variance or exception, the Zoning Board of Appeals may, in addition to the specific conditions of approval called for in this chapter, attach thereto such other conditions regarding the location, character, landscaping or treatment reasonably necessary for the furtherance of the intent and spirit of this chapter and the protection of the public health, safety and welfare.

Sec. 39-408. Procedure generally; fee. [Ord. No. 464, § 9-1.21; Ord. No. 872; Ord. No. 940, 3-16-1988; Ord. No. 1188, 2-19-1997; Ord. No. 1461, 9-6-2006]

The following procedure shall be required:

(a) An application for a zoning appeal shall be filed with the City Clerk of the City. Appeals can be filed by a person aggrieved or any officer, department, board, or bureau of the State of Michigan, or of the City.

(b) Upon receipt of an application for appeal, the City Clerk shall refer the application for appeal to the Zoning Administrator and the Zoning Administrator shall review the application for appeal to ensure it is complete and the required fee is paid. If the application is not complete, the Zoning Administrator will return the application to the applicant with a letter that specifies the additional material required. If the application is complete, the Zoning Administrator shall schedule the demand for a public hearing before the Zoning Board of Appeals. The appeal stays all proceedings in furtherance of the action appealed, unless the body or officer from whom the appeal is taken certifies to the Zoning Board of Appeals that by reason of facts stated in the certificate, a stay would, in the opinion of the body or officer, cause eminent peril of life or property, in which case proceedings may be stayed by restraining order issued by the Zoning Board of Appeals or a circuit court.

(c) The notices of appeal of an administrative decision or a written request seeking an interpretation of the zoning ordinance stating the time, date, and place of the public hearing, shall be published in a newspaper of general circulation within the City, and shall be sent to the person requesting the interpretation not less than 15 days before the public hearing. In addition, if the request for an interpretation or appeal of an administrative decision involves a specific parcel, written notice stating the nature of the interpretation request, and the time, date, and place of the public hearing on the interpretation request shall be sent by first class mail or personal delivery to all persons to whom real property is assessed within 300 feet of the boundary of the property in question, and to the occupants of all structures within 300 feet of the boundary of the property in question. If a tenant's name is not known, the term "occupant" may be used.

(d) If the written request of the Zoning Board of Appeals is for a variance, the Zoning Board of Appeals shall fix a reasonable time for the hearing of the request. In addition, the notice of public hearing stating the time, date, and place of the public hearing shall

be published in a newspaper of general circulation in the City. Notice shall also be sent by mail or personal delivery to the owners of property for which approval is being considered. Notice shall be sent to all persons to whom real property is assessed within 300 feet of the property and the occupants of all structures within 300 feet of the property regardless of whether the property or occupant is located in the zoning jurisdiction. The notice shall be given not less than 15 days before the public hearing. If the name of the occupant is not known, the term "occupant" may be used in making notification under this subsection.

(e) The notice shall do all of the following:

(1) Describe the nature of the request.

(2) Indicate the property that is subject to the request. The notice shall include a listing of all existing street addresses within the property. The street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used.

(3) State when and where the request will be considered.

(4) Indicate when and where written comments will be received concerning the request.

(5) Any party may appear at such hearings in person or by agent or attorney.

(f) Upon the day of the hearing of any application or appeal, the Zoning Board of Appeals may adjourn the hearing in order to permit the obtaining of additional information, or to cause such further notice as it deems property to be served upon such other property owners as it decides may be interested in such application or appeal. In the case of an adjourned hearing, persons previously notified shall not be notified of the time of the resumption of such hearing unless the Board so decides.

Sec. 39-409. (Reserved)

Sec. 39-410. Stay of proceedings. [Ord. No. 464, § 9-1.2; Ord. No. 1188, 2-19-1997]

An appeal under this article stays all proceedings in furtherance of the action appealed from unless the Building/Zoning Administrator certifies to the Zoning Board, after notice of appeal shall have been filed with him or her, that by reason of fact stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the Zoning Board or by the circuit court on application, after notice to the Building/Zoning Administrator and on due cause shown.

Sec. 39-411. Decisions of the Board. [Ord. No. 464, § 9-1.21; Ord. No. 872; Ord. No. 1188, 2-19-1997]

The Zoning Board shall decide all applications and appeals within 30 days after the final hearing thereon. A copy of the Board's decision shall be transmitted to the applicant or

appellant and to the Building/Zoning Administrator. Such decision shall be binding upon the Building/Zoning Administrator and observed by him or her, and he or her shall incorporate the terms and conditions of the same in the permit to the applicant or appellant whenever a permit is authorized by the Zoning Board. A decision of Zoning Board shall become final on the date the decision is made.

39 Attachment 1

City of Holland
Table of Sign Regulations for Commercial, PUD and Industrial Districts
[Added 6-6-2018 by Ord. No. 1739]

	Wall Signs			Freestanding Signs				Awning/Canopy/Marquee Signs		Projecting Signs**		Temporary Moveable Freestanding Signs***			
	Number	**Size**	**Location**	**Number**	**Location**	**Size**	**Height**	**Size**	**Location**	**Number/Location**	**Size**	**Number**	**Size**	**Location**	**Construction**
C-1	1 per tenant per street or parking frontage	1 square foot per foot of building length	Side(s) of the building facing the street or parking area	1 per parcel	5-foot setback from all property lines	25 square feet or 50 square feet*	5 feet maximum	1 square foot per linear foot of street frontage for each wall where signs are placed	1 per face	1 per tenant on a wall; 1 per 25-foot section of wall**	6 square feet	1 per ground-floor business	30 inches wide, 48 inches tall, 30 inches deep	Placed within 1 foot of the building; only displayed when the business is open***	Durable, weather-resistant material such as wood, metal, stone, or plastic
	Signs shall only be illuminated during business hours														
C-2	No limit on number	10% of the wall area, for each wall where signs are placed	No limit on location	Parcel street frontage is less than 300 feet = 1; more than 300 feet = 2	12-foot setback from all property lines	75 square feet or up to 100 square feet for properties located along US 31 (excluding business routes) or Chicago Drive east of Waverly Road	25 feet	1 square foot per linear foot of street frontage of the wall where placed	1 per face	1 per tenant on a wall; 1 per 25-foot section of wall**	6 square feet	1 per ground floor business	30 inches wide, 48 inches tall, 30 inches deep	Placed within 1 foot of the building; only displayed when the business is open***	Durable, weather-resistant material such as wood, metal, stone, or plastic
C-3	1 per tenant per street or parking frontage	1 square foot per foot of building length, for each wall where signs are placed, not to exceed 32 square feet	Below the sill of the second-floor windows	1 per parcel	Shall not impede pedestrian traffic	32 square feet	6 feet	2 square feet per linear foot of street or parking lot frontage for each wall where signs are placed	1 per face	1 per tenant on a wall; 1 per 25-foot section of wall**	6 square feet	1 per ground floor business	30 inches wide, 48 inches tall, 30 inches deep	Placed within 1 foot of the building; only displayed when the business is open***	Durable, weather-resistant material such as wood, metal, stone, or plastic
	All signs in the C-3 zone district shall be reviewed and approved by the Design Review Board (DRB) prior to the issuance of a permit. The DRB has the authority to grant additional sign area, waive location requirements for wall & projecting signs, or approve types of signs not specifically allowed by ordinance, if they find that the sign(s) is of appropriate size due to the size, scale or architectural features of the building or surrounding area.														

	Wall Signs			Freestanding Signs				Awning/Canopy/Marquee Signs		Projecting Signs**		Temporary Moveable Freestanding Signs***			
	Number	**Size**	**Location**	**Number**	**Location**	**Size**	**Height**	**Size**	**Location**	**Number/Location**	**Size**	**Number**	**Size**	**Location**	**Construction**
C-4	No limit on number	10% of the wall area, for each wall where signs are placed	No limit on location	Parcel street frontage is less than 300 feet = 1; more than 300 feet = 2	25-foot setback from all property lines	75 square feet or up to 100 square feet for properties located along US 31 (excluding business routes) or Chicago Drive east of Waverly Road	25 feet	2 square feet per linear foot of street or parking lot frontage for each wall where signs are placed	1 per face	1 per building wall per tenant**	6 square feet	Not allowed			
C-5	1 per tenant per street or parking frontage	1 square foot per foot of building length	No limit on location	1 per parcel	5-foot setback from all property lines	25 square feet or 50 square feet	5 feet	1 square foot per linear foot of street frontage for each wall where signs are placed	1 per face	1 per tenant on a wall; 1 per 25-foot section of wall**	6 square feet	Not allowed			
PUD	The Planning Commission shall set specific criteria for all signs in PUD zones. A permit is required for all signs in this zone district. Applications for a sign or sign type that was not previously approved by the Planning Commission may be administratively approved by Planning Staff or may be referred to the Planning Commission for an amendment to the site plan.														
I-1 Regular	No limit on number	10% of the wall area, for each wall where signs are placed	No limit on location	Parcel street frontage is less than 300 feet = 1; more than 300 feet = 2	25-foot setback from all property lines	75 square feet	10 feet	2 square feet per linear foot of street or parking lot frontage for each wall where signs are placed	1 per face	Not allowed		Not allowed			
I-1: Retail or Restaurant Use****	1 per tenant per street or parking frontage	1 square foot per foot of building length, for each wall where signs are placed, not to exceed 32 square feet	Below the sill of the second-floor windows	1 per parcel	Shall not impede pedestrian traffic	32 square feet	6 feet	2 square feet per linear foot of street or parking lot frontage for each wall where signs are placed	1 per face	1 per tenant on a wall; 1 per 25-foot section of wall**	6 square feet	1 per ground-floor business	30 inches wide, 48 inches tall, 30 inches deep	Placed within 1 foot of the building; only displayed when the business is open	Durable, weather-resistant material such as wood, metal, stone, or plastic
	***** All signs in I-1 that meet this use type have chosen to use this I-1 retail or restaurant use signage, and are located west of College Avenue and north of 9th Street shall be reviewed and approved by the Design Review Board (DRB) prior to the issuance of a permit. The DRB has the authority to grant additional sign area, waive location requirements for wall and projecting signs, or approve types of signs not specifically allowed by ordinance, if they find that the sign(s) is of appropriate size due to the size, scale or architectural features of the building or surrounding area.														

	Wall Signs			Freestanding Signs				Awning/Canopy/Marquee Signs		Projecting Signs**		Temporary Moveable Freestanding Signs***			
	Number	**Size**	**Location**	**Number**	**Location**	**Size**	**Height**	**Size**	**Location**	**Number/Location**	**Size**	**Number**	**Size**	**Location**	**Construction**
I-2	No limit on number	10% of the wall area, for each wall where signs are placed	No limit on location	Parcel street frontage is less than 300 feet = 1; more than 300 feet = 2	25-foot setback from all property lines	75 square feet	10 feet	2 square feet per linear foot of street or parking lot frontage for each wall where signs are placed	1 per face	Not allowed		Not allowed			

* C-1 and C-5 properties with street frontage and a posted speed limit of 35 miles per hour or less shall have a maximum freestanding sign area of 25 square feet. Properties with street frontage and a posted speed limit greater than 35 miles per hour shall have a maximum freestanding sign area of 50 square feet.
** Projecting signs shall not project more than 36 inches from the face of the wall, shall not extend above the roof or eave, shall be placed below the second-story window, shall not exceed one sign per tenant for each wall, and shall not exceed one sign for each 25 feet of wall length. All projecting signs shall maintain an eight-foot clearance from the bottom of the sign to the sidewalk below.
*** Temporary moveable freestanding signs shall be designed to be placed and removed during business hours. They shall not be illuminated. They shall require an annual permit. The scale and design shall be intended for viewing from the public right-of-way. The sign shall not be attached to a building or secured to or placed in the ground, nor attached or secured to any element including, but not limited to, trees, signs, light poles, planters, or other similar objects. There shall be provided at all times an unobstructed, straight sidewalk aisle of not less than six feet in width. No moveable freestanding sign shall be placed in a manner that obstructs or impedes sidewalk plowing or cleaning, create a visibility hazard for vehicular, bicycle and/or pedestrian traffic. All moveable freestanding signs shall be constructed to be durable and have adequate support to prevent tipping or movement of the sign, and shall not present a tripping hazard to pedestrians. Signs shall be placed within the public right-of-way on the same side of the street or alley and within lot line extensions of the business it promotes or the building the business is located in, or on the parcel of the business it promotes.
**** I-1 retail and restaurant uses may choose if they want to follow the 'I-1 Retail or Resturant Use' OR 'I-1 Regular' sign standards.
***** DRB review is required west of College Ave and north of 9th Street in I-1 because this area is deemed as Downtown Waterfront in the Future Land Use Map within the Master Plan.

Chapter 40

SEXUALLY ORIENTED BUSINESS LICENSES

Sec. 40-1. Definitions.

Sec. 40-2. Licenses; generally.

Sec. 40-3. Application; contents; fee.

Sec. 40-4. Procedures for processing license application; issuance of license.

Sec. 40-5. Content and display of license.

Sec. 40-6. Change or expansion of location.

Sec. 40-7. Fees.

Sec. 40-8. Term and renewal of license.

Sec. 40-9. Revocation or suspension of license.

Sec. 40-10. General requirements.

Sec. 40-11. Additional requirements for sexually oriented businesses offering live entertainment.

Sec. 40-12. Prohibited conduct.

Sec. 40-13. Violations.

Sec. 40-14. Additional remedies.

Sec. 40-15. Severability.

Sec. 40-1. Definitions. [Ord. No. 1343, 8-7-2002]

For the purpose of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

ADULT ARCADE — Any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are predominantly distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified anatomical areas" or "specified sexual activities."

ADULT BOOKSTORE OR ADULT VIDEO STORE — A commercial establishment which has a substantial portion of its stock-in-trade for sale or rent, for any form of consideration, any one or more of the following items:

(1) Books, magazines, periodicals or other printed matter, or photographs, pictures, films, motion pictures, video cassettes, video tapes, any material in digital format [including, but not limited to compact discs (CDs) or digital video discs (DVDs)], greeting cards, or video reproductions, slides, or other visual representations or electronic media or other merchandise which is predominantly distinguished or characterized by an emphasis on the depiction or description of "specified anatomical areas" or "specified sexual activities"; or

(2) Instruments, devices, or paraphernalia that are designed for use in connection with "specified sexual activities."

A commercial establishment may have other stock-in-trade which does not involve the offering for sale or rental of merchandise depicting or describing "specified anatomical areas" or "specified sexual activities" and still be categorized as an adult bookstore or adult video store. Such other stock-in-trade will not serve to exempt such a commercial establishment from being characterized as an adult bookstore or adult video store so long as a substantial portion of the commercial establishment's stock-in-trade is the offering for sale or rental for consideration the specified merchandise which is predominantly distinguished or characterized by an emphasis on the depiction or description of "specified anatomical areas" or "specified sexual activities."

The phrase "substantial portion of its stock-in-trade" shall be construed with reference to all relevant factors, including, but not limited to one or more of the following:

(1) Twenty-five percent or more of the commercial establishment's gross sales area is used for the sale of merchandise which is predominantly distinguished or characterized by an emphasis on the depiction or description of "specified anatomical areas" or "specified sexual activities." For purposes of this Division, gross sales area is defined as the floor area within the inside perimeter of the exterior walls of the commercial establishment, exclusive of vent shafts and courts, storage, stock, office, and shipping areas, without deduction for corridors, display fixtures, stairways, public rest rooms, closets, the thickness of interior walls, columns or other features.

(2) Twenty-five percent or more of the commercial establishment's stock-in-trade (inventory) is comprised of merchandise which is predominantly distinguished or characterized by an emphasis on the depiction or description of "specified anatomical areas" or "specified sexual activities."

(3) Twenty-five percent or more of the commercial establishment's gross revenues are generated by the sale or rental of merchandise which is predominantly distinguished or characterized by an emphasis on the depiction or description of "specified anatomical areas" or "specified sexual activities."

There is a rebuttable presumption that a commercial establishment constitutes an adult bookstore or adult video store if the commercial establishment (1) offers or advertises merchandise that is predominantly distinguished or characterized by an emphasis on the depiction or description of "specified anatomical areas" or "specified sexual activities" and (2) fails to make revenue and stock-in-trade (inventory) or related business records available to the City upon reasonable advance notice.

ADULT CABARET — A nightclub, restaurant, or other similar commercial establishment which regularly features or displays:

(1) Persons who appear in a state of nudity; or

(2) Live performances predominantly distinguished or characterized by an emphasis on the exposure of any "specified anatomical areas" or by any "specified sexual activities"; or

(3) Films, motion pictures, video cassettes, videotapes, any material in digital format [including, but not limited to compact discs (CDs) or digital video discs (DVDs)], slides, other photographic reproductions or visual media which are predominantly distinguished or characterized by an emphasis on the depiction or description of any "specified anatomical areas" or any "specified sexual activities."

ADULT MOTEL — A hotel, motel or similar commercial establishment that:

(1) Offers accommodations to the public for any form of consideration and provides patrons with closed-circuit television (as distinguished from commercial cable services) transmissions, films, motion pictures, video cassettes, videotapes, any material in digital format [including, but not limited to compact discs (CDs) or digital video discs (DVDs)], slides, other photographic reproductions or visual media that are predominantly distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified anatomical areas" or any "specified sexual activities"; and

(2) Offers a sleeping room for rent, or allows a tenant or occupant of a sleeping room to subrent the room, for a period of time that is less than 10 hours.

ADULT MOTION PICTURE THEATER — A commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, videotapes, any material in digital format [including, but not limited to compact discs (CDs) or digital video discs (DVDs)], slides, or similar photographic reproductions or visual media are regularly featured which are predominantly distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified anatomical activities" or "specified sexual activities." This definition includes, but is not limited to, commercial establishments that offer individual viewing booths.

ADULT THEATER — An adult theater is a theater, concert hall, auditorium or similar commercial establishment that regularly features a person or persons who appear in a state of nudity and/or regularly features a person or persons in live performances that are predominantly distinguished or characterized by an emphasis on the exposure of "specified anatomical areas" or "specified sexual activities."

ESCORT — A person who, for a fee, tip or any other form of consideration and regardless of who pays that consideration, agrees to act or offers to act as a companion or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

ESCORT AGENCY — A person or business association that furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip or other consideration. An escort agency is deemed to be operated in the location where (1) a request for an escort is received, or (2) the escort and the person requesting the escort are together.

MASSAGE — Any method of applying pressure on, friction against, stroking, kneading, rubbing, tapping, pounding, vibrating or stimulating the external parts of the body, for remedial or hygienic or other purposes, with the hands, with or without the aid of any mechanical, magnetic or electrical apparatus or appliances, with or without supplementary aids such as rubbing alcohol, liniments, antiseptics, oils, powders, creams, lotions, ointments or other similar preparations.

MASSAGE ESTABLISHMENT — Any building, room, place or establishment where body massage is regularly practiced on the human body, to club members or to the general public, for a charge. The term "massage establishment" includes, but is not limited to massage parlors, health clubs, sauna baths and steam baths if massages are performed at those locations. The term "massage establishment" shall not include:

(1) Hospitals, nursing homes, medical clinics;

(2) The office of a state-licensed physician, surgeon, physical therapist, osteopath or chiropractor;

(3) The establishment of a barber, manicurist, beautician or cosmetologist who is duly licensed under the laws of this state, or another state within the United States, or the federal government, and who practices within the established limits of his or her license, and who administers a massage in the normal course of his or her duties in which massages are administered only to the scalp, face, neck, hands, feet or shoulder;

(4) The establishment of a myomassaologist who is a current member of the American Massage Therapy Association or other national massage therapy organization with comparable prerequisites for certification; or

(5) A nonprofit organization operating a community center, swimming pool, tennis court or other educational, cultural, recreational or athletic facility for the welfare of the residents of the area.

MATERIAL — Anything tangible, whether through the medium of reading, observation, sound, or in any other manner, including, but not limited to, anything printed or written, any book, magazine, newspaper, pamphlet, picture, drawing, pictorial representation, motion picture, photograph, video tape, video disk, film, transparency, slide, audiotape, audiodisk, computer tape, holographic images, or any other medium used to electronically produce or reproduce images on a screen, or any mechanical, chemical, or electronic reproduction. Material includes undeveloped photographs, molds, printing plates, and other latent representational objects whether or not processing or other acts are required to make the content of the material apparent. This definition is intended to include material which is the product of any technology, whether that technology is available on the effective date of this Ordinance or becomes available after that date.

MERCHANDISE — Material and novelties.

NOVELTY — Any instrument, device, or paraphernalia which depicts or describes any "specific anatomical areas" or any "specific sexual activities," or which is designed for use, or commonly used, in connection with "specific sexual activities," excluding condoms and other birth control and disease prevention products.

NUDE MODEL STUDIO — Any place where a person who displays "specified anatomical areas" is regularly provided to be observed, sketched, drawn, painted, sculptured, photographed or similarly depicted by other persons who pay money or any form of consideration. Nude Model Studio does not include either of the following:

(1) An educational institution funded, chartered or recognized by the State of Michigan; or

(2) Any modeling session for a local, nonprofit organization, that is not open to the public or to any persons other than members of the organization, that is for the purpose of instruction in the artistic depiction in two-dimensional or three-dimensional media of the human form, during which no "specified sexual activities" occur and during which the model remains in a fixed pose.

PREDOMINANTLY DISTINGUISHED OR CHARACTERIZED BY AN EMPHASIS ON — The dominant or essential theme of the object described by such phrase.

PUBLIC NUDITY OR STATE OF NUDITY — Knowingly or intentionally displaying in a public place, or in any other place for payment or promise of payment by any person, including, but not limited to payment or promise of payment of an admission fee, any individual's genitals, pubic area, vulva, anus or anal cleft with less than a fully opaque covering, a female individual's breast with less than a fully opaque covering of the nipple and areola, or the covered male genitals in a discernibly turgid state. Public nudity does not include any of the following:

(1) A woman's breast-feeding of an infant shall not under any circumstances constitute public nudity irrespective of whether the nipple is covered during or incidental to the feeding.

(2) Any display of any part of the anatomy occurring as part of the regular curriculum of an educational institution that is funded, chartered, or recognized by the State of Michigan.

SEXUAL ENCOUNTER CENTER — A business or commercial establishment, except that which is part of the practice of and under the supervision and control of a physician, psychologist or psychiatrist licensed to practice in the State of Michigan, that, as one of its principal business purposes, offers for any form of consideration:

(1) Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or

(2) Activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or exposes or displays any "specified anatomical areas."

SEXUALLY ORIENTED BUSINESS — A business or commercial establishment engaging in any of the following businesses: (a) adult arcade; (b) adult bookstore or adult video store; (c) adult cabaret; (d) adult motel; (e) adult motion-picture theater; (f) adult theater; (g) escort agency; (h) nude model studio; or (i) sexual encounter center. Each of these businesses shall constitute a separate sexually oriented business.

SPECIFIED ANATOMICAL AREAS —

(1) Less than completely and opaquely covered human genitals, pubic region, buttocks, anus or a female breast below a point immediately above the top of the areola, but not including any portion of the cleavage of the female breast exhibited by a dress, blouse, shirt, leotard, bathing suit, or other wearing apparel, provided the areolae is not exposed; and

(2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES —

(1) The fondling or any other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts; or

(2) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, masturbation or sodomy; or

(3) Excretory functions as part of or in connection with any of the activities set forth in (1) or (2) above.

Sec. 40-2. Licenses; generally. [Ord. No. 1343, 8-7-2002]

(a) A person shall not establish, operate or maintain a sexually oriented business within the City of Holland without a valid sexually oriented business license issued by the City pursuant to this chapter.

(b) A person who operates or maintains a sexually oriented business which exists prior to the effective date of this ordinance shall not continue to operate or maintain said business unless that person obtains a valid sexually oriented business license issued by the City pursuant to this chapter within 90 days of the effective date of this ordinance.

(c) A person shall not establish, operate or maintain a sexually oriented business within the City of Holland except in the manner authorized by and in compliance with the provisions of this chapter and the licensee's license.

Sec. 40-3. Application; contents; fee. [Ord. No. 1343, 8-7-2002]

A person desiring to obtain a license to operate a sexually oriented business shall first obtain special exception approval pursuant to Division 8 of Chapter 39 of this Code and then file an application with the City Clerk along with a nonrefundable license fee in an amount established by resolution of the City Council. A massage establishment as defined in Section 40-1 is not a sexually oriented business, and a person seeking to establish, operate or maintain a massage establishment does not have to comply with the provisions of this chapter. The application for a sexually oriented business license shall be upon a form provided by the City Clerk and shall be signed and sworn to by the applicant. The application shall contain the following information:

(a) The full name, and present residential and mailing addresses of the applicant.

(b) The date of birth and social security number of the applicant.

(c) The two previous residential addresses immediately prior to the present residential address of the applicant and the dates of residence at each residential address.

(d) Any other names, nicknames or aliases which the applicant has been known by during the previous five years.

(e) A description of the services to be provided and the merchandise to be offered for rent or sale.

(f) The location and mailing address of the sexually oriented business.

(g) The full name, any aliases and the present residential and mailing addresses of each current employee and each known intended employee (including, but not limited to, managers and supervisors).

(h) If the applicant is a corporation:

(1) The corporation's complete name and official business address;

(2) The full name and current business address of each of the officers and directors of the corporation;

(3) The full name and current business address of each stockholder who has a controlling or significant share in the business [more than 20% of the corporation];

(4) The full name and current business address of each individual responsible in whole or in part for the management and operation of the sexually oriented business;

(5) Proof that the corporation is a corporation in good standing and authorized to conduct business in the State of Michigan; and

(6) The full name of the registered corporate agent and the address of the registered agent office for service of process.

(i) If the applicant is a partnership or other business entity:

(1) The organization's complete name and official business address;

(2) The full name and current business address of each of the partners (including limited partners) or members or each of the persons entitled to share in the profits of the organization;

(3) The full name and current business address of each individual responsible in whole or in part for the management and operation of the sexually oriented business.

(4) Proof of a certificate of fact not cancelled with respect to a limited partnership.

(5) Proof of a status certificate with respect to a limited liability company.

(6) The full name of the resident agent and the address of the registered office for service of process.

(j) If the applicant is a corporation, partnership, or other business entity, the following information shall be required with respect to each individual responsible in whole or in part for the management of the sexually oriented business and with respect to each individual responsible in whole or in part for the operation of the sexually oriented business:

(1) Height, weight, sex, color of eyes and hair;

(2) Business, occupation, or employment history for the three years immediately proceeding the application;

(3) All felony and misdemeanor convictions and all ordinance violations other than minor traffic violations and the nature of the offense (charge) for which the individual was convicted;

(4) Written proof (birth certificate or sworn affidavits) that the individual is at least 18 years of age; and

(5) A complete set of fingerprints, recorded by the Police Department.

(k) If the applicant is an individual or a group of individuals, the following information shall be required with respect to each individual applicant:

(1) Height, weight, sex, color of eyes and hair;

(2) Business, occupation, or employment history for the three years immediately preceding the application;

(3) All felony and misdemeanor convictions and all ordinance violations other than minor traffic violations and the nature of the offense (charge) for which the applicant was convicted;

(4) Written proof (birth certificate or sworn affidavits) that the applicant is at least 18 years of age; and

(5) A complete set of fingerprints, recorded by the Police Department.

(l) One portrait photograph of at least two inches by two inches which shall be taken by the Police Department, and the results of a criminal history records investigation of the applicant completed within 30 days immediately prior to the date of the filing of the application which shall include all criminal history information on file at the State Police Central Records Division pertaining to the applicant. (The applicant shall provide his or her fingerprints to the Police Department for the purpose of obtaining such criminal history information.) In the event that the applicant is a corporation, partnership, or other business entity, the applicant shall submit the required photograph and results of a criminal history records investigation of each individual responsible in whole or in part for the management of the sexually oriented business and each individual responsible in whole or in part for the operation of the sexually oriented business.

(m) The history of the applicant in the operation of the sexually oriented business or similar business or occupation, including, but not limited to, whether or not such applicant, in previously operating in the City or in another jurisdiction, has had a sexually oriented business license revoked or suspended and the reason therefor, and the business activity or occupation subsequent to such action or suspension.

(n) The amount of the establishment's gross sales area which will be used for the sale of merchandise which is predominantly distinguished or characterized by an emphasis on the depiction or description of "specified anatomical areas" or "specified sexual activities"; and how much of the establishment's stock-in-trade (inventory) will be comprised of merchandise which is predominantly distinguished or characterized by an emphasis on the depiction or description of "specified anatomical areas" or "specified sexual activities."

(o) Such other identification and information bearing on the application as the City may reasonably require.

Sec. 40-4. Procedures for processing license application; issuance of license. [Ord. No. 1343, 8-7-2002]

(a) Generally. An applicant for a sexually oriented business license shall present to the City Clerk verification that special exception approval pursuant to Division 8 of Chapter 39 of this Code has been obtained, the application containing all the information, data and documentation described in Section 40-3 and the license fee which shall be in an amount established by resolution of City Council. An application shall be deemed complete if the City Clerk has received verification that special exception approval pursuant to Division 8 of Chapter 39 of this Code has been obtained, the application contains all of the information, data and documentation described in Section 40-3 and the license fee has been paid ("completed application"). The City Clerk shall date a completed application upon receipt with the date that it is received. Applications which are not completely or correctly filled out; or are not accompanied by special exception approval verification; or do not contain the appropriate information, data and documentation; or are not accompanied by the required application fee shall be rejected as incomplete by the City Manager and shall be returned to the applicant. All completed applications shall be reviewed in accordance with the following procedure:

(1) Within three calendar days after receipt of a completed application, the City Clerk shall forward a copy of the completed application to the City Manager, Chief of Police, Fire Chief, and Building Inspector for review in accordance with this section. The Chief of Police, Fire Chief, and Building Inspector shall review the application, conduct any inquiries or inspections, and, within 14 calendar days of the receipt of the application from the City Clerk, report the findings of such inquiries and inspections to the City Manager on whether the application and the proposed premises comply with the requirements of this chapter.

a. The Chief of Police shall review the application to determine whether the applicant, any individual in the management of the corporation, partnership, or other business entity operating the sexually oriented business or any employee has been convicted of any criminal offenses other than minor traffic offenses, has violated any provision of this article or has had a sexually oriented business license or similar license denied or revoked by the City or by another governmental body and the reasons therefor.

b. The Fire Chief shall review the application to determine if the premises and the proposed sexually oriented business comply with all fire codes.

c. The Building Inspector shall review the application to determine if the premises and the proposed sexually oriented business comply with the zoning ordinance and all applicable electrical, mechanical, building and plumbing codes.

(2) The City Manager, after receiving the reports of the Chief of Police, the Fire Chief, and the Building Inspector, and after reviewing the complete application, shall approve or deny a license to the sexually oriented business in accordance with the standards set forth in Subsection (b) of this section. If no report is received from any one or more of the officials, then the City Manager shall assume that all requirements of this section, this chapter, and the zoning requirements of Chapter 39 and this Code are satisfied by the applicant. The City

Manager shall make a determination within 30 calendar days after the City Clerk's receipt of the completed application. If approved, then the City Clerk shall issue the sexually oriented business license.

(b) Standards for issuance of license. The City Manager shall make a licensing decision within 30 calendar days as referenced above in Subparagraph (2) of Subsection (a) of this section, notwithstanding other ordinance requirements, and the City Manager shall not predicate a license denial on a deficiency in the application that is due to the City's failure to perform under this section. The City Manager shall issue a sexually oriented business license to an applicant unless the City Manager finds any of the following:

(1) Failure of the applicant, the premises, or the sexually oriented business to comply with this section, this chapter, the zoning requirements of Chapter 39, all applicable fire, mechanical, electrical, and building codes, or any other provision of this Code.

(2) Prior criminal convictions, other than minor traffic offenses, of the applicant, any individual in the management of any corporation, partnership, or other business entity operating the sexually oriented business, a manager, a supervisor or an employee of the sexually oriented business, when such criminal conviction involves moral turpitude, prostitution, obscenity or other crime of a sexual nature and is a felony conviction which arose within five years of the date of the application or a misdemeanor conviction which arose within two years of the date of the application.

(3) Misrepresentation of any material fact in the application for the license.

(4) Violations of this chapter by the applicant, an individual in the management of the corporation, partnership, or other business entity operating the sexually oriented business, a manager, a supervisor, or an employee of the sexually oriented business.

(5) The applicant, an individual in the management of the corporation, partnership or other business entity operating the sexually oriented business, a manager, a supervisor, or an employee of the sexually oriented business is not at least 18 years of age.

(6) The applicant, an individual in the management of the corporation, partnership or other business entity operating the sexually oriented business, a manager, a supervisor or an employee of the sexually oriented business (i) was denied a sexually oriented business license within 12 months immediately preceding the date of the application; (ii) had a sexually oriented business license revoked within 12 months immediately preceding the date of the application; or (iii) has a sexually oriented business license under suspension at the time of application.

(c) Written findings of fact in support of denial. In the event that a sexually oriented business license is denied, the City Manager shall make written findings of fact in support of the denial based on the standards described above and shall notify the applicant of the denial in writing. The City Manager's written notice of denial shall be delivered in person or by certified U.S. mail, postage prepaid, return receipt requested, addressed to the applicant's address as set forth in the application. The application shall

be deemed denied on the day that the notice of denial is delivered in person or three days after it is placed in the U.S. mail as provided in this Subsection (c).

(d) Appeal. The applicant may appeal such denial to the City Council by filing a written request for an appeal with the City Manager within 10 calendar days following receipt of notification of the denial. In the event of an appeal, the City Council shall hold a public hearing on the denial within 30 calendar days of the receipt of the written request for an appeal. The City Council shall have the power to reverse, affirm, or modify the decision of the City Manager, and the City Council shall render a written decision on the appeal within 10 calendar days of hearing the appeal. The City Council shall, in its determination, make findings of fact supporting its decision, and the reasons shall be based on the standards described in Subsection (b) of this section. The determination of the City Council shall be final, any person aggrieved by the decision of the City Council may promptly appeal such decision to a court of competent jurisdiction in accordance with the Michigan Constitution and applicable state law. If such a person aggrieved by the decision of the City Council seeks judicial review, then a temporary license shall be issued pending the outcome of the appeal. If judicial review is pursued, then the City shall submit the administrative transcript to the court within 45 days of being served with pleadings commencing the appeal process. A temporary license may be revoked if the applicant/appellant fails to comply with the procedural requirements for prosecuting the appeal.

(e) License deemed to be issued. If the City Manager does not issue or deny a sexually oriented business license within 30 days after the properly completed application is submitted to him or her for review and determination, then the sexually oriented business license applied for shall be deemed to have been issued.

Sec. 40-5. Content and display of license. [Ord. No. 1343, 8-7-2002]

(a) Every sexually oriented business shall be provided with a license which prominently states on its face the expiration date of the license, the name of the licensee, the name of the sexually oriented business, and the address of the sexually oriented business. The licensee shall only conduct business at the address and in the name shown on the license. If the licensee has other sexually oriented businesses, then the licensee must obtain a separate license for each business and operate at separate locations.

(b) A license for a sexually oriented business shall be displayed on the premises of the sexually oriented business in a conspicuous place so that it may be readily seen by persons entering the premises, and, upon request, the licensee shall make the license available to the Police Department or to the Building Inspector during normal business hours.

Sec. 40-6. Change or expansion of location. [Ord. No. 1343, 8-7-2002]

A license for a sexually oriented business shall not be transferable to a new location or to a new person/licensee. Each sexually oriented business located within the City shall be separately licensed regardless of whether such businesses are owned or operated by the same person or entity.

Sec. 40-7. Fees. [Ord. No. 1343, 8-7-2002]

A license fee as established by resolution of the City Council shall be submitted to the City Clerk along with an application for a license and verification that special exception approval pursuant to Division 8 of Chapter 39 of this Code has been obtained.

Sec. 40-8. Term and renewal of license. [Ord. No. 1343, 8-7-2002]

(a) Every license issued pursuant to this chapter shall terminate on April 30, unless it is revoked sooner, and a license must be renewed before operation is allowed for May 1 through April 30 of the following year.

(b) A licensee desiring to renew a license shall make application to the City Clerk. The application for renewal must be filed with the City Clerk not later than 60 days before the license expires. The City Clerk shall date the completed application upon receipt with the date that it is received. Within three calendar days after receipt of a renewal application, the City Clerk shall forward a copy to the City Manager, Chief of Police, Fire Chief and Building Inspector. The application for renewal shall be upon a form provided by the City Clerk and shall be signed and sworn to by the applicant. The application for renewal shall contain such information, data and documentation as is required for an application for a new license. An application for renewal shall be processed in accordance with the procedure outlined in Section 40-4(a)(1), (2), (b), (c), (d) and (e) regarding the procedure for processing a license application.

(c) A license renewal fee in the amount established by resolution of the City Council shall accompany the renewal application when it is filed with the City Clerk. In addition to the renewal fee, a late renewal fee in the amount established by resolution of the City Council shall be assessed against an applicant who files for a renewal less than 60 days before the license expires.

Sec. 40-9. Revocation or suspension of license. [Ord. No. 1343, 8-7-2002]

(a) The City Council can revoke or suspend a license for any of the following reasons:

(1) Discovery that false or misleading information, data or documentation was given on any application or that material facts were omitted from any application.

(2) The licensee, an individual in the management of the corporation, partnership, or other business entity operating the sexually oriented business, a manager, a supervisor or an employee of the sexually oriented business has violated any provision of this chapter or any rule or regulation adopted by the City Council pursuant to this chapter; provided, however, that in the case of a first offense by a licensee where the conduct was solely that of an individual in the management of the corporation, partnership, or other business entity operating the sexually oriented business, a manager, a supervisor or an employee, the penalty shall not exceed a suspension of 30 days if the City Council finds that the licensee had no actual or constructive knowledge of such violation and could not by the exercise of due diligence have had such actual or constructive knowledge.

(3) The licensee becomes ineligible to obtain a license, or the licensee is convicted of, or pleads nolo contendere to, any felony or any crime involving moral turpitude, prostitution, obscenity or other crime of a sexual nature.

(4) Any cost or fee required to be paid by this chapter is not paid.

(5) Any intoxicating liquor or cereal malt beverage is sold, served, used, possessed, or consumed on the premises of the sexually oriented business, unless such business has a liquor license and is operating in accordance with that license.

(6) The licensee fails to comply with the zoning requirements of Chapter 39 which regulate sexually oriented businesses.

(b) The City Council, before revoking or suspending any license, shall give the licensee at least 10 days' written notice of the charges against him or her, and the opportunity for a public hearing before the City Council, as hereinafter provided.

(1) Before the City Council revokes or suspends a license issued under this chapter, the City Council shall cause written notice to be delivered in person or by certified U.S. mail, postage prepaid, return receipt requested, addressed as set forth in the application to the licensee or applicant affected, informing such person of the right to a hearing upon request.

(2) If the licensee does not request a hearing within 14 days of the date the notice was sent, then the license may be forthwith revoked or suspended. If the licensee requests a hearing before the City Council regarding said proposed revocation or suspension, then said hearing shall be held within 21 days after the date of the written request.

(3) Any license issued by the City may be immediately suspended by the City Manager or duly appointed City official if it is determined that the licensee has violated or someone at or upon the licensed location has violated the City ordinance or state law and that continued operation under the license is contrary to the public health, safety, and welfare. A licensee shall have the right to a hearing before the City Council on any license suspension by the City Manager or duly appointed City official, and notice thereof shall be given in accordance with Subparagraphs (1) and (2) above.

(4) Both the City and the licensee shall be afforded a reasonable opportunity to present evidence on the issue at a hearing. The City Council shall, in its determination, make findings of fact supporting its decision, and the reasons shall be based on the standards described in Subsection (a) of this section. The City Council shall render a written decision on the proposed revocation or suspension within 10 calendar days of the hearing, action taken by the City Council shall be final, and any fees hereunder shall not be refunded to the applicant or licensee.

(c) The transfer of a license or any interest in a license shall automatically and immediately revoke the license.

(d) Any licensee whose license is revoked shall not be eligible to receive a license for one year from the date of revocation. No location or premises for which a license has been

issued shall be used as a sexually oriented business for six months from the date of revocation of the license.

(e) Any licensee whose license is revoked or suspended pursuant to this section may appeal the revocation or suspension to a court of competent jurisdiction in accordance with the Michigan Constitution and applicable state law. If such a licensee seeks judicial review, then a temporary license shall be issued pending the outcome of the appeal. If judicial review is pursued, then the City shall submit the administrative transcript to the court within 45 days of being served with pleadings commencing the appeal process.

Sec. 40-10. General requirements. [Ord. No. 1343, 8-7-2002]

All sexually oriented businesses shall comply with each of the following requirements:

(a) With the provisions of this chapter; all other applicable City ordinances, resolutions, rules and regulations; and all other applicable federal, state and local laws.

(b) Obtaining and maintaining a valid license to operate a sexually oriented business issued in accordance with this chapter.

(c) A person under the age of 18 shall not enter or be on the premises of a sexually oriented business at any time the sexually oriented business is open.

(d) A person under the age of 18 shall not be employed, contracted or engaged to provide any services within, for or on behalf of a sexually oriented business.

(e) An owner, partner, performer, contractor or employee of a sexually oriented business shall not sell or provide goods, merchandise or services to persons under the age of 18 on the premises.

(f) A sexually oriented business or any other person at any sexually oriented business shall not appear, be present, or perform while nude. A sexually oriented business or any other person at any sexually oriented business shall not perform or conduct any "specified sexual activities" with or for any sexually oriented business patron or any other sexually oriented business employee or any other person. A sexually oriented business patron or any other person at any sexually oriented business shall not perform or conduct any "specified sexual activities" with or for any sexually oriented business employee or any other sexually oriented business patron or any other person.

(g) A sexually oriented business shall be open to inspection by the City's license officer, ordinance enforcement officer, the Building Inspector, any public safety officer, any police officer, any firefighter, any sheriff deputy and any Michigan State Police trooper that has reasonable cause to believe that the licensee or the sexually oriented business is not in compliance with the law, and such inspection shall be allowed at any time the establishment is occupied or open for business and anywhere in the establishment where patrons are allowed. Upon request, the licensee shall make available to the inspector documentation regarding the stock-in-trade (inventory) of the sexually oriented business and documentation regarding the gross revenues of the sexually oriented business, which documentation shall show how much of the gross revenues are generated by the sale or rental of merchandise which is predominantly distinguished or

characterized by an emphasis on the depiction or description of "specified anatomical areas" or "specified sexual activities."

(h) The prohibitions of Section 40-10(c) shall be posted on signs placed in at least two conspicuous (i.e., so they will be easily viewed by persons occupying the premises) places on the business premises. Such signs shall be at least 24 inches by 36 inches in size and shall be printed in bold face type at least 24 points in size.

(i) The exterior of the business premises shall not have any words, lettering, photographs, silhouettes, drawings, or pictorial representations of a sexually explicit manner, sexually explicit material, "specified anatomical areas" or "specified sexual activities."

(j) The merchandise or activities within the business premises shall not be visible or audible from a point that is outside of the business premises.

(k) Daily hours of operation shall be limited to the period of time from 7:00 a.m. until 2:30 a.m. the following day on any day of the week except Sunday, when daily hours of operation shall be limited to the period of time from 12:00 noon until 2:30 a.m. the following day.

(l) One or more manager's stations shall be in each sexually oriented business, and the interior of each sexually oriented business shall be configured in such a manner that there is a direct and substantially unobstructed view from at least one manager's station to every part of each area, except rest rooms, of the establishment to which any sexually oriented business patron is permitted access for any purpose.

(m) A sexually oriented business shall comply with both the following:

(1) At least two employees, excluding entertainers, must be on the premises of the business at all times the business is open; and

(2) The business is equipped with operational security cameras which shall be used at all times the business is open.

(n) A booth, room or cubicle, located in any sexually oriented business (excepting an adult motel), which is used by patrons for the viewing of merchandise or any other entertainment must comply with all of the following requirements:

(1) It must be unobstructed by any door, lock or other entrance and exit control device;

(2) One side must be totally open to a public, lighted isle so that there is an unobstructed view at all times from the adjoining isle of any occupant in the booth, room or cubicle;

(3) It must be illuminated such that a person of normal visual acuity looking into the booth, room or cubicle from the entrance adjoining the public lighted isle can clearly determine the number of people within;

(4) There shall be no holes or openings in any side or rear wall not related to utility, ventilation or temperature control services or otherwise required by any governmental code or authority;

(5) Only one individual shall occupy the booth, room or cubicle at any one time; and

(6) An individual occupying an adult booth, room or cubicle shall not engage in any "specified sexual activities," nor shall he or she damage or deface any portion of the booth, room or cubicle.

(o) A sexually oriented business shall not contain any video, pinball, slot, bagatelle, pigeon hole, pool or any other games, machines, tables or implements.

Sec. 40-11. Additional requirements for sexually oriented businesses offering live entertainment. [Ord. No. 1343, 8-7-2002]

All sexually oriented businesses offering live entertainment shall comply with each of the following requirements:

(a) A dressing room for performers with direct access between said dressing area and the performance area or stage shall be provided, such that a performer may enter the performance area or stage without entering the area from which patrons will view the performance.

(b) All performances shall occur on a stage elevated at least 18 inches above the immediate floor level and removed at least six feet from the nearest employee or patron.

(c) The dressing area for performers shall be separate and not freely accessible from areas of the business accessible to patrons, and the dressing area shall contain hot and cold running water and toilet facilities.

(d) There shall be no physical contact between any performer and any other performer or between any performer and any owner, independent contractor, employee, patron or other person during or for at least 15 minutes following such performance, and there shall be no physical contact between any person on the stage or performance area and any owner, independent contractor, employee, patron or other person during or for at least 15 minutes following any performance. "Physical contact" includes, but is not limited to any contact in which any part of the body or clothing of one person touches any part of the body or clothing of the other person, or if a person causes anything under his or her direct control to touch any part of the body or clothing of another person.

(e) An escort agency shall maintain permanent records on the premises showing the name, address and telephone number of every person for whom an escort is provided, the fee paid, the name of the escort or escorts so provided, and the location where the escort and the person requesting the escort initially meet. These records shall be made available, upon demand and without prior notice, to any City official inspecting the premises pursuant to this ordinance.

(f) No tip or gratuity from any sexually oriented business patron may be offered or accepted for any performance by a sexually oriented business employee at any time prior to the completion of any such performance. No sexually oriented business patron shall offer, and no sexually oriented business employee having performed live at a sexually oriented business shall accept any form of a tip or gratuity offered directly to the employee by the sexually oriented business patron. Following completion of a performance, all tips and gratuities to a sexually oriented business employee performing

live shall be placed into a receptacle provided for receipt of such tips and gratuities by the sexually oriented business.

Sec. 40-12. Prohibited conduct. [Ord. No. 1343, 8-7-2002]

(a) Except as otherwise provided by this Code, no person within a sexually oriented business shall display to the view of any other person "specified anatomical areas," or dance, entertain, display or otherwise engage in any exhibition or performance in such a manner as to expose to the view of any person any device, costume or covering which gives the appearance of or simulates any "specified anatomical areas."

(b) No person shall engage in any "specified sexual activities" on the premises of a sexually oriented business or any other commercial establishment.

Sec. 40-13. Violations. [Ord. No. 1343, 8-7-2002]

(a) A violation of any provision of this chapter shall be a misdemeanor punishable in accordance with this Code.

(b) Permitting, allowing, encouraging or promoting any violation of any provision of this chapter shall be a misdemeanor punishable in accordance with this Code.

(c) Aiding, assisting or abetting the violation of any provision of this chapter shall be a misdemeanor punishable in accordance with this Code.

(d) Any violation of this chapter or the zoning requirements of Chapter 39 may result in the suspension and/or revocation of a license to operate a sexually oriented business.

Sec. 40-14. Additional remedies. [Ord. No. 1343, 8-7-2002]

A violation of any provision of this chapter shall also be a nuisance per se, and in addition to the remedies and penalties otherwise provided in this chapter, the City shall be entitled to seek and obtain temporary and permanent equitable relief, enjoin violations of this chapter, and seek all other remedies as provided by law.

Sec. 40-15. Severability. [Ord. No. 1343, 8-7-2002]

The various parts, sections and clauses of this ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby.

DISPOSITION LIST

Code Comparative Table

This Code Comparative Table indicates the location of ordinances adopted by the City Council of the City of Holland between Ord. No. 902 and 1587. Non-Code ordinances are omitted from this Table. For the disposition of ordinances adopted after Ordinance No. 1587, consult the Disposition List. The Code Comparative Table provides historical information and is not updated.

Ordinance Number	Date	Section		Section of this Code
902	6-18-1986			39-164(n)
903	7-2-1986	1	Rpld	2-84, 2-87—2-90
		2	Added	2-84—2-87
904	7-2-1986			2-100—2-108
905	7-16-1986			10-1
906	7-16-1986			14-5—14-9
909	8-20-1986			2-98
910	9-3-1986			39-64, 39-64.1 39-27
912	10-15-1986			27-15, 27-18
916	2-4-1987			27-6(a)
919	3-4-1987			14-4.29, 14-4.42
920	3-4-1987			1-3(e), (f), 10-1
922	4-1-1987			14-4.27
924	4-15-1987			16-1
925	5-6-1987			9-10
926	5-6-1987		Rpld	9-11
929	7-15-1987			27-14
930	7-15-1987			27-14.1
931	10-21-1987			18-170
932	11-4-1987			11-20, 11-21
933	11-4-1987			18-1.1
936	1-6-1988			39-78(9)
937	1-6-1988			39-90(1), (3)
938	1-6-1988			39-96.02
940	3-16-1988			39-16, 39-129(c)
941	4-6-1988			39-115.101—39-115.106.1, 39-115.107—39-115.109
942	5-4-1988			39-52—39-56
945	5-18-1988			27-6.1
946	6-1-1988			37-5.1
947	6-1-1988			29-23.1
948	6-1-1988			29-34
949	6-1-1988			20-5
950	6-1-1988			20-3(7)—(9)
951	6-1-1988		Rpld	20-13

Ordinance Number	Date	Section	Section of this Code
955	7-6-1988		33-5
956	7-6-1988		Rpld 27-6.1
957	7-20-1988		39-47, 39-47.1, 39-48—39-51
958	8-3-1988		2-98
961	9-21-1988		14-4.6-1
962	9-21-1988		14-4.33
963	9-21-1988		14-4.3
966	10-5-1988		39-63.1
967	11-2-1988		39-93(e), 39-100(e), 39-107(e)
968	11-16-1988		39-68.01
969	12-21-1988		39-167(d)
971	2-15-1989		2-98
972	2-15-1989		2-98.1
974	3-1-1989		39-15.4
975	3-1-1989		39-63, 39-63.1, 39-63.1-1—39-63.1-3, 39-63.2
977	6-21-1989		39-59(a)
978	6-21-1989		39-49(a)
979	6-21-1989		39-45(c)
980	6-21-1989		32-27—32-31
981	6-21-1989		10-1
982	7-19-1989		39-36.1—39-36.5
983	8-2-1989		18-233.1—18-233.14
984	8-16-1989		39-173—39-181
985	9-6-1989		39-13
986	9-6-1989		39-15.2(a)
990	11-1-1989		10-1
991	11-1-1989		10-1
992	11-1-1989		39-36.1—39-36.5
993	1-3-1990		Rpld 3-7, 3-17
994	1-3-1990		3-13, 3-28
995	1-3-1990		6-5, 7-5, 10-1, 27-14, 32-6, 32-9, 32-14, 39-156
998	2-7-1990		39-180(note)
999	2-7-1990		9-10
1000	2-7-1990		Rpld 28-1—28.5
1002	3-7-1990		Ch. 2, Art. XIV (note)
1004	4-18-1990		32-29
1006	10-17-1990		39-68
1007	10-17-1990		39-2
1008	10-17-1990		26-1—26-4
1010	9-19-1990		39-147(b)
1011	10-3-1990		18-233.1—18-233.13
1012	12-5-1990		18-250

CODE COMPARATIVE TABLE

Ordinance Number	Date	Section		Section of this Code
1013	7-10-1991			39-78.1
1014	12-19-1991		Rpld	39-17—39-25
			Added	39-17—39-23
1015	2-6-1991			32-23—32-26
1016	2-20-1991			39-42—39-46
1017	7-10-1991			2-97
1018	7-10-1991			27-15
1019	7-10-1991			10-1
1021	7-10-1991			14-4.9(j), 14-4.10(l), 14-4.15(f), 14-4.17(b), 14-4.19(f) 14-4.32
1022	7-10-1991		Rpld	14-4.19(g)
1023	7-10-1991			14-4.6
1024	9-18-1991			6-6—6-13
1025	8-7-1991			32-17.1
1028	11-6-1991			13-21
1029	11-6-1991			27-15
1030	11-6-1991			10-1
1031	11-20-1991			18-233.1—18-233.14
1032	12-4-1991			2-17
1033	12-4-1991			33.1-21—33.1-28
1034	1-8-1992			27-1—27-26
1035	1-22-1992			18-2
1036	1-22-1992			18-52
1037	1-22-1992			18-53
1038	1-22-1992			18-54
1039	1-22-1992			18-54.1
1040	1-22-1992			18-55
1041	1-22-1992			18-55.1
1042	1-22-1992			18-110
1043	1-22-1992		Rpld	18-52.1
1044	2-20-1992		Rpld	18-80
1045	3-4-1992			39-115.6(g), (h)
1046	3-4-1992			39-115.107(i), (j)
1047	4-1-1992			1-16, 1-17
1049	4-22-1992			27-15
1050	4-22-1992			10-1
1051	5-6-1992			14-3(d)
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1422	9-7-2005	1		39-198
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1424	9-21-2005			13-19.1
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1457	7-5-2006		Added	32-51
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1459	8-2-2006	1		39-357(a)(1)—(3), (e)
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		2		39-363(d)(3)
1502	4-23-2008			39-17(g)(5)
1503	4-23-2008			14-4.32(a)(10)
1504	6-18-2008		Dltd	39-20—39-27
			Added	39-20—39-32
1506	6-18-2008	1		39-70(i)

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Ordinance Number	Date	Section		Section of this Code
		2		39-71(b)
		3		39-80(f)
		4		39-81(b)
1507	7-2-2008		Dltd	19-10
			Added	19-3(d) 19-11
1508	7-16-2008			39-353(m)
1509	7-16-2008			39-354
1510	7-16-2008		Dltd	39-405(c)
			Rltd	39-405(a)—(e)
			as	39-405(a)—(d)
1511	7-16-2008			22-10(a), (f)
1514	8-20-2008			39-337
1515	9-3-2008		Added	33.1-50—33.1-60
1516	9-3-2008			29-1—29-33, 29-47—29-84
1517	9-3-2008	1		39-56(b)
		2		39-57
		3		39-58(a)
1518	9-3-2008			2-99.1—2-99.4
1519	11-5-2008			33-4, 33-5
1520	11-5-2008	1	Added	Ch. 19, Art. I(title)
		2	Added	19-15—19-21
1521	11-5-2008			32-41, 32-43—32-46
1522	11-5-2008			2-16—2-18
1523	11-19-2008		Rpld	3.1-1—3.1-7
1525	1-7-2009			39-192, 39-351
1526	2-4-2009			39-2
1527	2-4-2009			39-17
1528	2-4-2009		Added	39-18.1
1529	3-4-2009			39-13
1530	3-4-2009		Dltd	32-9, 32-14 32-1, 32-3, 32-6, 32-12, 32-13, 32-15, 32-17.1, 32-30
		32-50	Added	32-4.2
1531	3-4-2009			19-11
1533	5-13-2009		Added	13-6.3
1534	6-3-2009		Added	32-61—32-74
1535	6-3-2009		Added	18-44.1—18-44.7
1536	6-17-2009		Added	18-49(e)
1537	7-1-2009		Added	9-8—9-15
1538	9-16-2009			33.1-50—33.1-60
1539	1-6-2010			1-16
1542	2-17-2010		Added	18-26.1
1543	3-17-2010			39-6, 39-85
1544	4-14-2010			14-4.3, 14-4.15

Ordinance Number	Date	Section		Section of this Code
1548	7-7-2010		Added	2-100.2(5)
1549	7-21-2010			7-10
1550	8-4-2010		Added	39-390
1551	10-20-2010	1		39-21
		2		Ch. 39, Art. VI, Div. 1 (title)
1552	10-20-2010			39-337
1554	11-17-2010			32-27—32-29
1555	12-1-2010			39-400
1556	1-5-2011			32-46
1557	2-2-2011			39-321
1558	2-2-2011			39-185(b)
1559	2-2-2011			18-44.4
1560	2-16-2011			39-390
1562	3-23-2011		Added	34-37—34-51
1563	5-18-2011			39-390
1564	6-1-2011		Added	39-19.1, 39-192.1
1565	6-1-2011		Added	2-48.1
1566	8-3-2011	1		19-1
		2	Added	19-3.1—19-3.6
1567	7-20-2011			39-341(h)
1568	7-20-2011		Added	39-199
1569	10-19-2011			22-10
1570	11-2-2011			29-50
1572	11-16-2011		Rpld	39-370—39-378
1573	11-16-2011		Added	6-17—6-20
1574	11-16-2011			34-10
1575	12-21-2011			39-199
1576	1-18-2012			39-2
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				39-198
				39-280
				39-281
				39-284
				39-320
				39-322
1577	1-18-12			14-4.26
				14-4.27
			Added	14-4.27.1, 14-4.27.2 14-4.29.1 14-4.29 14-4.32.1 14-4.33—14-4.37
1578	1-18-2012		Rpld	39-199
1579	1-18-2012		Added	6-2.1 14-4.3
1580	2-1-2012	1		19-5
		2		19-7

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Ordinance Number	Date	Section	Section of this Code
		3	Added 19-10
		4, 5	19-11, 19-12
1581	3-7-2012		24-14
1582	5-16-2012		Added 32A-1—32A-14
1585	5-16-2012		Rpld 39-165—39-171
			Added 39-165—39-172
		2	39-26(e)
1586	5-16-2012		7-1, 7-2
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			7-8
			7-10
			7-13
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			7-37
1587	5-16-2012		Rpld 7-3, 7-4, 7-7, 7-9, 7-14, 7-16, 7-17, 7-23—7-26, 7-29, 7-33

Chapter DL

DISPOSITION LIST

§ DL-1. Disposition of legislation.

The following is a chronological listing of legislation of the City of Holland adopted since June 2012, indicating its inclusion in the Code or the reason for its exclusion. [Enabling legislation which is not general and permanent in nature is considered to be non-Code material (NCM).] Consult the Code Comparative Table for the disposition of Ordinance Nos. 902 through 1587. Information regarding legislation that is not included in the Code nor on this list or the Code Comparative Table is available from the office of the City Clerk.

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§ DL-1. Disposition of legislation.

Ordinance No.	Adoption Date	Subject	Disposition
1588	6-6-2012		NCM
1589	8-1-2012	Housing property maintenance amendment	Ch. 14, Art. II
1590	8-1-2012	Nuisances amendment	Ch. 19, Art. I
1591	9-19-2012	Miscellaneous offenses amendment	Ch. 20
1592	10-2-2012	Zoning Map amendment	NCM
1593	10-17-2012	Refuse and rubbish amendment; recyclable materials amendment; license of commercial refuse and rubbish haulers and designated contract haulers amendment; composting and yard clippings amendment	Ch. 27, Arts. I, II, III and IV
1594	10-17-2012	Parks and Recreation Advisory Commission	Ch. 2, Art. XVA
1595	11-28-2012	Zoning Map amendment	NCM
1596	11-28-2012	Expense recovery	Ch. 2, Art. XVIII
1597	11-28-2012	Michigan Vehicle Code amendment	Ch. 18, Art. II
1598	11-28-2012	Zoning amendment	Ch. 39
1599	1-16-2013	Zoning amendment	Ch. 39

Ordinance No.	Adoption Date	Subject	Disposition
1600	1-16-2013	Zoning amendment	Ch. 39
1601	2-6-2013	Zoning amendment	Ch. 39
1602	3-6-2013	Zoning amendment	Ch. 39
1603	4-17-2013	Explosives (fireworks) amendment	Ch. 11, Art. II
1604	4-17-2013	Nuisances amendment	Ch. 19
1605	5-1-2013	Zoning Map amendment	NCM
1606	6-5-2013	Zoning amendment	Ch. 39
1607	6-5-2013	Recyclable materials amendment	Ch. 27, Art. II
1608	6-19-2013	Zoning Map amendment	NCM
1609	6-19-2013	Zoning amendment	Ch. 39
1610	6-26-2013	Explosives (fireworks) amendment	Ch. 11, Art. II
1611	6-26-2013	Nuisances amendment	Ch. 19
1612	7-10-2013	Zoning amendment	Ch. 39
1613	8-7-2013	Parks and public property amendment	Ch. 22
1614	8-21-2013	Animals and fowl amendment	Ch. 4
1615	8-21-2013	Taxation: tax exemption for elderly dwelling projects established after January 1, 2013	Ch. 33.1, Art. IIIA
1616	9-4-2013	Zoning amendment	Ch. 39
1617	9-18-2013	Taxation: tax exemption for elderly dwelling projects established after January 1, 2013 amendment	Ch. 33.1, Art. IIIA
1618	11-6-2013	Zoning Map amendment	NCM
1619	11-20-2013	Motor vehicles and traffic: stopping, standing and parking amendment	Ch. 18, Art. V
1620	11-20-2013	Nuisances amendment	Ch. 19, Art. I
1621	1-15-2014	Zoning Map amendment	NCM
1622	1-15-2013	Zoning amendment	Ch. 39
1623	3-5-2014	Zoning Map amendment	NCM

Ordinance No.	Adoption Date	Subject	Disposition
1624	4-2-2014	Animals and fowl amendment	Ch. 4
1625	4-2-2014	Nuisances (graffiti) amendment	Ch. 19, Art. I
1626	5-14-2014	Electricity amendment	Ch. 9
1627	5-14-2014	Electricity amendment	Ch. 9
1628	5-14-2014	Licenses generally amendment; nuisances amendment; miscellaneous offenses amendment; zoning amendment	Ch. 17; Ch. 19; Ch. 20; Ch. 39
1629	5-14-2014	General provisions amendment	Ch. 1
1630	6-4-2014	Zoning amendment	Ch. 39
1631	7-2-2014	Parks and public property area amendment	Ch. 22
1632	7-16-2014	Zoning amendment	Ch. 39
1633	8-13-2014	Parks and public property area amendment	Ch. 22
1634	9-3-2014	Zoning amendment	Ch. 39
1635	9-3-2014	Fire protection amendment	Ch. 11, Art. III
1636	9-17-2014	Zoning amendment	Ch. 39
1637	9-17-2014	Zoning amendment	Ch. 39
1638	9-17-2014	Property maintenance code: registration and certification of rental dwellings amendment	Ch. 14, Art. II
1639	10-1-2014	Water: lien as security for collection of service charges amendment	Ch. 37, Art. III
1640	10-1-2014	Zoning amendment	Ch. 39
1641	10-1-2014	Property maintenance code: light, ventilation and space requirements amendment	Ch. 14, Art. II
1642	11-19-2014	Administration: personnel regulations amendment	Ch. 2, Art. II
1643	12-3-2014	Sewer usage and administration amendment	Ch. 29, Art. I
1644	2-4-2015	Zoning Map amendment	NCM

Ordinance No.	Adoption Date	Subject	Disposition
1645	2-4-2015	Motor vehicles and traffic: stopping, standing and parking amendment	Ch. 18, Art. V
1646	4-1-2015	Zoning Map amendment	NCM
1647	5-13-2015	Zoning amendment	Ch. 39
1648	5-20-2015	Parks and public property area amendment	Ch. 22
1649	6-3-2015	Motor vehicles and traffic: stopping, standing and parking amendment	Ch. 18, Art. V
1650	6-3-2015	Property Maintenance Code: registration and certification of rental dwellings amendment; zoning amendment	Ch. 14, Art. II; Ch. 39
1651	6-17-2015	Property Maintenance Code: administration and enforcement amendment	Ch. 14, Art. II
1652	6-17-2015	Zoning amendment	Ch. 39
1653	6-17-2015	Animals and fowl amendment	Ch. 4
1654	10-7-2015	Zoning Map amendment	NCM
1655	10-7-2015	Zoning amendment	Ch. 39
1656	10-7-2015	Zoning amendment	Ch. 39
1657	10-7-2015	Zoning amendment	Ch. 39
1658	10-7-2015	Zoning amendment	Ch. 39
1659	10-7-2015	Zoning amendment	Ch. 39
1660	10-7-2015	Zoning amendment	Ch. 39
1661	10-7-2015	Food service sanitation repealer; ice repealer; weights and measures repealer	Ch. 12, reference only; Ch. 15, reference only; Ch. 38, reference only
1662	10-7-2015	Streets and sidewalks: sidewalks, curbs and driveways amendment	Ch. 32, Art. III
1663	12-2-2015	Parks and public property area amendment	Ch. 22
1664	4-20-2016	Zoning Map amendment	NCM
1665	4-20-2016	Zoning amendment	Ch. 39

Ordinance No.	Adoption Date	Subject	Disposition
1666	4-20-2016	Parks and public property area amendment	Ch. 22
1667	5-4-2016	Zoning Map amendment	NCM
1668	5-4-2016	Zoning Map amendment	NCM
1669	6-1-2016	Zoning amendment	Ch. 39
1670	6-1-2016	Harbor, wharves, docks and vessels: special local watercraft controls amendment	Ch. 13, Art. III
1671	6-1-2016	Zoning amendment	Ch. 39
1672	6-15-2016	Zoning Map amendment	NCM
1673	7-26-2016	Licenses generally amendment; public lodging houses amendment	Ch. 17; Ch. 26, Art. I
1674	8-3-2016	Zoning amendment	Ch. 39
1675	9-7-2016	Zoning Map amendment	NCM
1676	10-5-2016	Zoning Map amendment	NCM
1677	10-5-2016	Zoning Map amendment	NCM
1678	11-2-2016	Zoning Map amendment	NCM
1679	11-16-2016	Parks and public property amendment	Ch. 22
1680	11-16-2016	Parks and public property amendment	Ch. 22
1681	12-7-2016	Parks and public property amendment	Ch. 22
1682	12-21-2016	Zoning Map amendment	NCM
1683	1-4-2017	Zoning Map amendment	NCM
1684	2-1-2017	Zoning Map amendment	NCM
1685	2-15-2017	Housing amendment	Ch. 14
1686	3-15-2017	Taxation: Centennial Park Apartments tax exemption	Ch. 33.1, Art. VI
1687	3-15-2017	Zoning Map amendment	NCM
1688	4-19-2017	Water: cross-connections amendment	Ch. 37, Art. II
1689	5-3-2017	Zoning amendment	Ch. 39

Ordinance No.	Adoption Date	Subject	Disposition
1690	5-3-2017	Zoning Map amendment	NCM
1691	5-3-2017	Housing amendment	Ch. 14
1692	6-7-2017	Harbor, wharves, docks and vessels amendment	Ch. 13
1693	8-2-2017	Cable Television and Telecommunications Amendment	Ch. 7
1694		Nuisances Amendment	Ch. 19
1695	2-15-2017	Housing Amendment	Ch. 14
1696		Zoning Amendment	Ch. 39
1697	10-18-2017	Zoning Amendment	Ch. 39
1698		Zoning Amendment	Ch. 39
1699	11-1-2017	Administration Amendment	Ch. 2
1700		Zoning Amendment	Ch. 39
1701	1-3-2018	Peddlers and Transient Merchants Amendment	Ch. 24
1702	1-3-2018	Zoning Map Amendment	NCM
1703	1-17-2018	Offenses—Miscellaneous Amendment	Ch. 20
1704	1-17-2018	Administration Amendment	Ch. 2
1705	1-17-2018	Amusements Amendment	Ch. 3
1706	1-17-2018	Animals and Fowl Amendment	Ch. 4
1707	1-17-2018	Buildings Amendment	Ch. 6
1708	1-17-2018	Cable Television and Telecommunications Amendment	Ch. 7
1709	1-17-2018	Cemeteries Amendment	Ch. 8
1710	1-17-2018	Harbor, Wharves, Docks and Vessels Amendment	Ch. 13
1711	1-17-2018	Housing Amendment	Ch. 14
1712	1-17-2018	Junk and Secondhand Dealers and Used Car Dealers Amendment	Ch. 16
1713	1-17-2018	Licenses Generally Amendment	Ch. 17
1714	1-17-2018	Offenses—Miscellaneous Amendment	Ch. 20

Ordinance No.	Adoption Date	Subject	Disposition
1715	1-17-2018	Outdoor Assemblies Amendment	Ch. 21A
1716	1-18-2018	Parks and Public Property Amendment	Ch. 22
1717	1-17-2018	Plumbing Repealer	Ch. 25
1718	1-17-2018	Refuse and Garbage Amendment	Ch. 27
1719	1-17-2018	Sewer Usage and Administration Amendment	Ch. 29
1720	1-17-2018	Streets and Sidewalks Amendment	Ch. 32
1721	1-17-2018	Subdivisions Amendment	Ch. 33
1722	1-17-2018	Taxicabs and Buses Amendment	Ch. 34
1723	1-17-2018	Trees and Shrubs Amendment	Ch. 36
1724	1-17-2018	Fire Protection Amendment	Ch. 11
1725	2-21-2018	General Provisions Amendment	Ch. 1
1726	3-7-2018	Zoning Amendment	Ch. 39
1727	3-7-2018	Zoning Amendment	Ch. 39
1728		Zoning Amendment	Ch. 39
1729		Zoning Amendment	Ch. 39
1730	3-7-2018	Zoning Amendment	Ch. 39
1731	4-18-2018	Zoning Amendment	Ch. 39
1732		Zoning Amendment	Ch. 39
1733	4-18-2018	Housing Amendment	Ch. 14
1734	4-18-2018	Zoning Amendment	Ch. 39
1735		Zoning Amendment	Ch. 39
1736	4-18-2018	Housing Amendment	Ch. 14
1737	4-18-2018	Public Lodging Houses and Residential Care Facilities Amendment	Ch. 26
1738		Zoning Amendment	Ch. 39
1739	6-6-2018	Zoning Amendment	Ch. 39
1740	7-11-2018	Parks and Public Property Amendment	Ch. 22

Ordinance No.	Adoption Date	Subject	Disposition
1741	8-1-2018	Zoning Amendment	Ch. 39
1742	8-15-2018	NCM	NCM
1743	8-15-2018	Motor Vehicles and Traffic Amendment	Ch. 18
1744	9-19-2018	Taxation: Tax Exemption for Elderly Dwelling Projects Established After January 1, 2018	Ch. 33.1, Art. VII
1745	9-19-2018	Zoning Map Amendment	NCM
1746	9-19-2018	Zoning Amendment	Ch. 39
1747	10-17-2018	Animals and Fowl Amendment	Ch. 4
1748	10-17-2018	Zoning Map Amendment	NCM
1749	10-17-2018	Zoning Map Amendment	NCM
1750	11-7-2018	Zoning Map Amendment	NCM
1751	11-7-2018	Zoning Map Amendment	NCM
1752	11-7-2018	Motor Vehicles and Traffic Amendment	Ch. 18
1753	11-7-2018	Sewer Usage and Administration Amendment	Ch. 29
1754	12-5-2018	Water: Lead and Copper Rule	Ch. 37, Art. IV
1755	12-5-2018	Offenses—Miscellaneous Amendment	Ch. 20
1756	12-19-2018	Zoning Amendment	Ch. 39
1757	12-19-2018	Offenses—Miscellaneous Amendment	Ch. 20
1758	1-2-2019	Zoning Amendment	Ch. 39
1759	1-2-2019	Zoning Amendment	Ch. 39
1760	1-2-2019	Zoning Amendment	Ch. 39
1761	2-6-2019	Zoning Map Amendment	NCM
1762	2-6-2019	Zoning Amendment	Ch. 39
1763	2-6-2019	Zoning Amendment	Ch. 39
1764	2-20-2019	Fire Protection Amendment; Nuisances Amendment	Ch. 11; Ch. 19

Ordinance No.	Adoption Date	Subject	Disposition
1765	4-17-2019	Water: Lead and Copper Rule Amendment	Ch. 37, Art. IV
1766	4-17-2019	Administration Amendment	Ch. 2
1767	5-1-2019	Administration Amendment	Ch. 2
1768	5-1-2019	Parks and Public Property Amendment	Ch. 22
1769	6-5-2019	Cable Television and Telecommunications Amendment	Ch. 7
1770	6-5-2019	Zoning Amendment	Ch. 39
1771	6-19-2019	Zoning Map Amendment	NCM
1772	6-19-2019	Housing Amendment	Ch. 14
1773	6-19-2019	Refuse and Garbage Amendment	Ch. 27
1774	7-17-2019	Zoning Map Amendment	NCM
1775	10-30-2019	Taxation Amendment	Ch. 33.1, Art. VI
1776	12-4-2019	Sewer Usage and Administration Amendment	Ch. 29
1777	12-4-2019	Motor Vehicles and Traffic Amendment	Ch. 18
1778	1-8-2020	Zoning Map Amendment	NCM

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