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Promote and Protect the Health, Safety and Welfare of the Residents and Property Owners of the City of Galesburg by Regulating, Preventing, Reducing or Eliminating Blight, Blighting Factors or Causes of Blight Within the City of Galesburg; To Provide for the Enforcement thereof; To make Violation Thereof a Municipal Civil Infraction; To Repeal All Other Ordinances or Parts Therein Inconsistent or Contrary to This Ordinance ...... 171
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SOLICITORS, TRANSIENT MERCHANTS, AUCTIONS AND RESIDENTIAL SALES; TO PROHIBIT STREET PARKING IN
CERTAIN CIRCUMSTANCES; TO PROHIBIT PARKING IN FRONT YARDS OF RESIDENCES, EXCEPT IN DRIVEWAYS; TO
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*Editor's note-Printed herein is the city charter adopted on April 29, 1996. Amendments are indicated by
parenthetical history notes following amended provisions. The absence of a history note indicates that the
provision remains unchanged from the original. Obvious misspellings have been corrected without notation.
For stylistic purposes, headings and catchlines have been made uniform and the same style for citations to state
statutes as appears in the Code of Ordinances has been used. Additions for clarity are indicated in brackets.

1 State law reference—Home rule cities, MCL 117.1 et seq

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PREAMBLE

We, the people of the City of Galesburg, Kalamazoo County, pursuant to the authority granted by the constitution and laws of the State of Michigan, do hereby ordain and adopt this charter of the City of Galesburg.

CHAPTER I. CITY BOUNDARIES

Section 1.1. [Generally.]

The municipal corporation now existing and known as the City of Galesburg being in the County of Kalamazoo and the State of Michigan as its limits now are or hereafter may be established through annexation or detachment, shall continue to be a political and corporate body of the City of Galesburg.
(Code 2005,§1.1)

CHAPTER II. CORPORATE POWERS

Section 2.1. General Powers of the City.

The City shall have all powers possible for a city to have under the constitution and laws of this state as fully and completely as though they were specifically enumerated in this charter.
(Code 2005,§2.1)

Section 2.2. Construction.

The powers granted to the City under this charter shall be construed liberally in favor of the City and the specific mention of particular powers herein shall not be construed as limiting in any way the general powers granted to the City.
(Code 2005,§2.2)

Section 2.3. Nomination by Petition.

The City may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with any one or more governmental entity, its divisions or agencies or any other quasi-governmental agency.
(Code 2005,§2.3)

CHAPTER III. ELECTIONS

Section 3.1A. Nomination by Petition [-Signatures; Filing Date.]

Any person desiring any elective office of the City shall file a nominating petition with the City Clerk signed by not less than fifteen (15) nor more than fifty (50) registered electors of the City. Candidates are to file nominating petitions not later than the date of the state primary election at 4:00 p.m.
(Code 2005,§3.1A)

Section 3.1B. [Nomination by Petition-Blank petitions.]

Blank petitions in substantially the same form as required by the laws of the state for state and county officers, except for references to political parties, shall be prepared by the City Clerk. Persons shall not sign their names to a greater number of petitions for any City office than there are offices to be filled at that election.
(Code 2005,§3.1B)
Section 3.1C. [Nomination by Petition-Conditions for Acceptance.]
The City Clerk shall accept only such nominating petitions for qualified candidates as are on official petition forms and contain the required number of signatures. The City Clerk shall, within five (5) days after the final filing date, determine the sufficiency of signatures on each petition filed and immediately notify in writing any candidate whose petition is found to be insufficient. Petitions which contain the required number of signatures for qualified candidates shall be marked "approved" along with the date of the approval.
(Code 2005,§3.1C)

Section 3.2A. Regular Elections [-Generally.]
A regular municipal election shall be held on the first Tuesday after the first Monday in November of every even numbered year.
(Code 2005,§3.2A)

Section 3.2B. [Regular Elections-Mayor and City Council.]
At the regular municipal election held in November of 1996 and every two (2) years thereafter, a Mayor shall be elected for a two (2) year term. At the regular municipal election held in November of 1996 and every four (4) years thereafter, three (3) City Council members having a term of four (4) years shall be elected. At the regular municipal election held in November of 1998 and every four (4) years thereafter, three (3) City Council members having a term of four (4) years shall be elected. Mayor and City Council terms shall commence on January 1st following the regular municipal election. If a Council member shall no longer possess the qualifications for the office as set forth in Chapter IV, Section 4.7, a vacancy is then declared.
(Code 2005,§3.2B)

Section 3.3. Wards.
Unless and until otherwise provided for by ordinance or law, the City shall consist of one voting ward.
(Code 2005,§3.3)

Section 3.4. Nonpartisan Election.
Election to the City Council shall be by nonpartisan ballot.
(Code 2005,§3.4)

Section 3.5. Registration.
Qualified electors in the City of Galesburg shall register in accordance with the general election laws of this state.
(Code 2005,§3.5)

Section 3.6. Election Laws.
Unless otherwise set forth herein, elections in the City of Galesburg shall be held in accordance with the general election laws of this state.
(Code 2005,§3.6)

CHAPTER IV. CITY COUNCIL

Section 4.1. General Powers and Duties.
All Powers of the City shall be vested in the City Council except as otherwise provided by law or this charter, and the Council shall provide for the exercise and performance of all duties and obligations imposed on the City by law. (Code 2005,§4.1)

**Section 4.2. Structure of City Council.**
There shall be a City Council composed of the office of Mayor and six (6) members of the Council. The Mayor and Council members shall be elected by the voters of the City at large. (Code 2005,§4.2)

**Section 4.3. Eligibility.**
Only registered voters of the City shall be eligible to hold the office of Mayor or Council member. (Code 2005,§4.3).

**Section 4.4. Mayor.**
The Mayor shall be the chief executive officer of the City and shall serve as the official head of the City government for all ceremonial purposes, represent the City in intergovernmental relationships and be recognized by the Governor for the purpose of military law. The Mayor shall preside at all Council meetings with full voting privileges. The Mayor shall from time to time give the Council information concerning the affairs of the City, and recommend such measures as shall be deemed expedient. The Mayor shall sign all warrants for the payment of public funds from the City treasury. The Council shall appoint from among its members a Deputy Mayor who in case of the absence or disability of the Mayor shall act as Mayor during the duration of such absence or disability. (Code 2005,§4.4)

**Section 4.5. Restrictions Upon Council.**
Except where authorized by law, no member of the City Council shall hold any other City office or City employment, except as a non-compensated volunteer, during the member's term of office. (Code 2005,§4.5)

**Section 4.6. Compensation; Expenses.**
The City Council shall appoint by ordinance a Local Officer's Compensation Commission pursuant to statute. The City Council shall be compensated, subject to Council approval, for expenses incurred in the performance of their duties upon submission of records, logs and/or receipts documenting expenditures realized therefrom. (Code 2005,§4.6)

**Section 4.7. Vacancies.**
The office of Mayor or council member shall become vacant if, before the expiration of the term of such office, any of the following occurs:

A. A vacancy is created pursuant to law.
B. Death of any member of the Council.
C. The effective date of a written resignation.
D. A member of Council ceases to reside in the City of Galesburg.
E. A member of council misses either four (4) consecutive regular meetings of the Council or twenty-five percent (25%) of all meetings, regular or special, in any calendar year, unless those absences are excused by majority vote of the Council and the reasons therefor entered into the
proceedings of the Council.
F. Misconduct, misfeasance or malfeasance related to or connected with the performance of official duties constituting willful or intentional neglect, gross negligence or failure to discharge the duties of the office.
(Code 2005,§4.7)

**Section 4.8. Filling of Vacancies.**

If a vacancy occurs, as set forth in Section 4.7, the vacancy shall be filled as follows:

A. If the unexpired term of vacancy is six (6) months or less, City Council shall appoint a qualified person after application and review within thirty (30) days of the effective date the vacancy occurred to fill the remainder of the term of office.

B. If the unexpired term of vacancy is more than six months, the City Council shall fill the vacancy by appointment within 60 days thereafter. Each appointment after a vacancy shall end on the first Monday following the next regular City election. At that election, the remainder of the term, if any, for which there was an appointment shall be filled. (November 4, 2014)

**Section 4.9. Procedure.**
The City Council shall be governed by the following procedure unless otherwise established by law.

A. Meetings. The City Council shall meet on the first Monday in January following each regular City election and shall hold at least one regular stated meeting each month for the transaction of business at such times as may be prescribed by ordinance or resolution provided that there shall be a regular meeting not less than once per month. Special meetings may be called at any time by the Mayor or by two (2) other Council members, and by giving each member such notice as may be practicable or required by law. All meetings shall be open to the public, except as may be provided by law. Any person may address the Council upon matters pending before it.

B. Rules and Minutes. The Council shall keep its own rules and order of business. Minutes shall be kept as a permanent record in the English language or as provided by law.

C. Quorum. A majority of the members shall constitute a quorum for the transaction of business. In the absence of a quorum, the meeting shall be adjourned to the next regular scheduled meeting date.

D. Voting. The affirmative vote of a majority of members in the office shall be necessary to adopt any ordinance or resolution or take any other action allowed by law or this charter unless otherwise required by law. Voting on all ordinances or resolutions shall be by roll call and the ayes and nays shall be recorded and entered upon the record.

(Code 2005,§4.9)

**CHAPTER V. ADMINISTRATION OF CITY AFFAIRS**

**Section 5.1. Administrative Offices.**

The City Council, by majority vote, shall appoint a Clerk, Treasurer, Assessor and Board of Review and may establish such City offices as it deems necessary for the efficient and proper transaction of City affairs and prescribe the function of all such offices, except that no function
assigned by this charter may be discontinued or assigned to an office other than as set forth herein.
(Code 2005, §5.1)

Section 5.2. Public Works Administrator.

The Public Works Administrator shall have complete charge of streets, walks and alleys, water supply, sewers, cemeteries, parks and all similar or related activities of the City with authority to employ such assistance as may be needed with the approval of Council and to recommend the purchase of such equipment and supplies as may be required. The Public Works Administrator shall attend all meetings of the Council, with the privilege of speaking but not of voting, and shall submit to the Council a monthly report of activities in such detail as the Council shall require.
(Code 2005, §5.2)

Section 5.3. City Clerk.

The City Clerk shall give notice of Council meetings to its members and the public, keep a journal of its proceedings and perform such other duties as are assigned by this charter or by the Council or by state law. The City Clerk, acting as Purchasing Agent, shall purchase all commodities, equipment and supplies required in any department of the City. No purchase shall be made for the City except by authority of the Purchasing Agent. The City Council shall approve the purchase of any item which exceeds one percent (1%) of the current budget, or items purchased in any one month which exceed three percent (3%) of the current budget. At no one time shall be Purchasing Agent expend more than one hundred dollars ($100) for any one item purchased without the approval of the Council. No regular or standing payments previously contracted or approved by Council shall be considered a part of the Purchasing Agent's expenditures during any one month. The Purchasing Agent shall make a monthly report to the City Council in such detail as the Council shall require.
(Code 2005, §5.3)

Section 5.4. City Treasurer.

The City Treasurer shall have the care and custody of all moneys and all evidences of value belonging to or held in trust by the City. The Treasurer shall perform such other duties as required by charter, or prescribed by Council or law.
(Code 2005, §5.4)

Section 5.5. City Assessor.

The Assessor shall perform all duties as required by charter or as prescribed by Council or by law.
(Code 2005, §5.5)

Section 5.6. Job Responsibilities and Qualifications.

Responsibilities and duties of all administrative officials and other City employees as established and not otherwise specified by this charter, law or by ordinance shall be governed by the appropriate job descriptions as approved by the City Council. Regardless of the applicable job description the administrative officials must possess the education and experience commensurate with the position held and have the ability to perform the duties of that office.
(Code 2005, §5.6)

Section 5.7A Compensation [-Generally.]
Except as otherwise provided in this charter, the compensation of all administrative officials, except members of the Council and the Mayor, shall be established by the Council.
(Code 2005,§5.7A)

Section 5.7B. [Compensation-Merit System.]
Consistent with all applicable federal and state laws the City Council shall provide by ordinance for the establishment, regulation and maintenance of a merit system governing personnel policies necessary for the effective administration of the employees of City departments, offices and agencies, including but not limited to classification and pay plans, examinations, force reduction, removals, working conditions, provisional and exempt appointments, in service training, grievances and relationships with employee organizations.
(Code 2005,§5.7B)

All administrative officers not subject to an express written contract serve at the pleasure of the Council. Any appointive officer may be removed at any time by the affirmative vote of not less than five (5) members of the Council, except that no officer who has served the City for more than one year immediately previous to that time may be removed during the six (6) months between January 1st following the regular City election and July 1st, unless by unanimous vote of the City Council.
(Code 2005,§5.8)

CHAPTER VI. LEGISLATION

Section 6.1. Legislative.
No member of Council shall vote on any question in which they have a financial interest or any question concerning their own official conduct; but on all other questions every member of the Council present shall vote. On all votes which are not unanimous, the yea and nay vote of each member shall be recorded and published in the regular proceedings of the meeting.

Section 6.2. Legislative Powers.
The City of Galesburg shall have the power to regulate, control, prohibit or provide for, by ordinance or resolution, such matters as may be allowed by law or this charter, for the purposes of preserving protecting or promoting the health safety and welfare of its residents.

Section 6.3. Prior Legislation.
All ordinances, resolutions, rules, regulations and policies not inconsistent with the provisions of this charter and which are in force and effect at the time of the adoption of this charter shall continue in full force and effect until or unless repealed or amended.

Section 6.4A. Legislative Enactment [Legislation: Enacting Clause.]
All legislation of the City of Galesburg shall be by ordinance or resolution of the City Council. All acts or omissions carrying a penalty for the violation thereof shall be by ordinance. Each ordinance shall be in writing and numbered consecutively.

The enacting clause of all ordinances shall be, "The City of Galesburg ordains". No ordinance shall be revised, altered or amended by reference to its title only, but by the section or sections of the ordinance revised, altered or amended and shall be reenacted and published in summary form. Excepting ordinances which are declared by the Council to be emergency ordinances, no ordinance shall be passed at the same Council meeting at which it is introduced. No ordinance imposing a penalty shall take effect until at least ten (10) days after publication and no measure
making or amending a grant, renewal or extension of a franchise or other special privilege shall ever be passed as an emergency measure.

Section 6.4B. [Legislative Enactment-Code of Ordinances.]
All ordinances when legally enacted shall be recorded by the City Clerk in a book to be called "The City Code of Ordinances" and it shall be the duty of the Mayor and City Clerk to authenticate such records by their official signatures. Any ordinance may be repealed by reference to its number and title only or any section of any ordinance may be repealed by reference to the number and title of the ordinance and the number of the section to be repealed. If the City Council shall order a general revision and compilation of all ordinances, the printing and binding of not less than one hundred (100) copies of the compilation shall be deemed sufficient publication and all ordinances published in said compilation shall be read and received in evidence in all courts without further proof.

Section 6.5. Publication of Ordinances.
Each ordinance shall be published within fifteen (15) days of its adoption or as required by law. All ordinances shall become effective ten (10) days after publication thereof unless otherwise required by law.

Section 6.6. Technical Codes.
Ordinances and codes of a technical nature may be enacted and published by reference in a manner allowed for by law.

Section 6.7. Penalties.
Each ordinance shall contain penalty provisions for the violation thereof. Except as otherwise provided by law, punishment for the violation of any ordinance or this charter shall not exceed a fine of five hundred dollars ($500), imprisonment for ninety (90) days or both.

Section 6.8. Investigations.
The City Council may make investigations into affairs of the City and the conduct of any City department, office or agency and for this purpose may subpoena witnesses, administer oaths, take testimony and require the production of evidence. Failure or refusal to obey a lawful order issued in the exercise of these powers by the City Council shall be a misdemeanor punishable by a fine of not more than five hundred dollars ($500), imprisonment for ninety (90) days or both, or the maximum allowed by law, whichever is greater.

Section 6.9. Open Meetings Act.
The business performed by Council and any other legislative body of the City shall be conducted at a public meeting held in compliance with the open meetings act, Act No. 267 of the Public Acts of 1976, as amended, being sections 15.261 to 15.275 of the Michigan Compiled Laws [MCL 15.261 et seq.]. All records of the municipality shall be made available to the general public in compliance with the freedom of information act, Act No. 442 of the Public Acts of 1976, as amended, being sections 15.231 to 15.246 of the Michigan Compiled Laws [MCL 15.231 et seq.].

CHAPTER VII. FINANCES

Section 7.1. Fiscal Year
The fiscal year of the City shall begin with the first day of July each year.
Section 7.2. Uniform Budget and Accounting.
The budgeting and accounting systems of the City shall comply with a uniform system of municipal budgeting and accounting as required by law.

Section 7.3. Presentation of Budget Document.
Before the first Monday in April all City administrative officials shall submit to the City Clerk an itemized estimate of the expenditures for the next fiscal year, of the department or departments under their control. The City Clerk shall prepare a complete itemized budget for the next fiscal year and shall submit it to the City Council on or before the first Monday in May.

Section 7.4. Budget Document.
All budget accounts shall be separated as to maintenance and capital expenditures and every important item in each account shall be listed separately.

Section 7.5. Budget Hearing.
Before the final adoption of the budget, a public hearing shall be held on the proposed budget with notice of hearing to be published in a newspaper of general circulation at least (10) ten days prior to the hearing. The notice shall include the time and place of the hearing and the location of a copy of the proposed budget for prior inspection by the public.

Section 7.6. Adoption.
The City Council shall, not later than the first Monday in June, adopt by resolution a budget for the ensuing fiscal year and make appropriations for that purpose. The City Council shall set by resolution the amount necessary to be raised by property taxes which amount shall not be greater than the amount permitted by law.

Section 7.7. Transfer of Funds.
After the budget has been adopted, no money shall be drawn from the treasury of the City, nor shall any obligation for the expenditure of money be incurred, except pursuant to the budget appropriation.

The City Council may authorize transfer of moneys to any unencumbered appropriation, balance or any portion thereof from one department, fund or agency to another during the fiscal year. The balance of any appropriation which has not been expended at the end of the fiscal year may be reapportioned during the fiscal year as determined by the Council.

Section 7.8. Budget Control.
At the beginning of each quarter during the fiscal year, and more often if required by the City Council, the City Clerk shall submit to the City Council data showing the relation between the estimated and actual income and expense to date; and if it shall appear that the income is less than anticipated, the City Council shall reduce appropriations, except any amounts required for debt and interest charges, to such degree as may be necessary to keep expenditures within income and designated reserves. If the revenues exceed the amounts estimated in the budget, the City Council may make supplemental appropriations.

Section 7.9. Independent Audit.
An independent audit shall be made of all City accounts at least annually and more frequently if deemed necessary by the City Council. Such audit shall be made by an independent Certified Public Accountant and shall comply with the Generally Accepted Standards.

CHAPTER VIII. BORROWING
Section 8.1. Borrowing Authority.

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

A. General obligation bonds which pledge the full faith, credit and resources of the City for repayment thereof.

B. Notes in anticipation of collection of taxes provided the proceeds of such notes be spent only in accordance with the appropriations as provided by Section 7.6.

C. In the case of fire, flood or other calamity, the City Council may borrow for the relief of the inhabitants of the City and for the preservation of municipal property, a sum not to exceed three-eighths (3/8) of one percent (0.375%) of the assessed value of all real and personal property in the City, due in not more than five (5) years, even if the loan would cause the indebtedness of the City to exceed any limit established by law.

D. Special assessment bonds in anticipation of payment of special assessments made for the purpose of paying for the cost of any public improvement.

E. Mortgage bonds for the acquiring, owning, purchasing, construction, improving or operation of any public utility.

F. Bonds for the refunding of the indebtedness of the City.

G. Revenue bonds authorized by law which are secured only by the revenues from a public improvement or public utility and do not constitute a general obligation of the City.

H. Bonds in anticipation of future payments from Motor Vehicle Highway Fund or any other fund of the State as permitted by law.

Section 8.2. Preparation and Record of Bonds.

Each bond or other evidence of indebtedness shall bear the signature of the Mayor and City Clerk under seal of the City. A complete and detailed record of all bonds and other evidences of indebtedness issues by the City shall be kept by the City Clerk or other designee(s).

Section 8.3. Installment Purchases.

The City Council may authorize and enter into any installment contract or agreement for the purchase of lands, property or equipment for public purposes as may be permitted by law. All deferred payments shall be included in the budget for the year for which the installment is payable.

Section 8.4. Limits of Borrowing Authority.

The net indebtedness incurred for all public purposes shall not, at any time, exceed the maximum amount permitted by law.

CHAPTER IX. TAXATION

Section 9.1. Subject of Taxation.
The subjects of taxation for the City's purposes shall be the same as for state, county and school purposes under the General Law.

Section 9.2. Power To Tax.
The City shall have the authority to assess, levy and collect taxes, rents and excises, except as otherwise provided by law, in an amount not to exceed one and one-half percent (1.5%) of the assessed value of the real and personal property in the City. Assessments, levies and collections shall be made in a manner provided by law or this charter.

Section 9.3. Assessment Date.
Unless otherwise provided by law, the 31st day of December in each year shall be the assessment date for both real and personal property in the City.

Section 9.4. Assessment Rolls.
The City Assessor shall make complete assessment rolls of the City in the form and manner provided by law not later than the first Monday in March of each year.

Section 9.5. Board of Review.
A Board of Review consisting of three (3) members, shall be appointed by City Council and serve according to law. Compensation of the Board of Review shall be determined by the City Council. The Board of Review shall convene at such times provided by law and at such place as designated by the City Council. Notice of the meeting of the board of Review shall be given in accordance with law. At its first meeting each year, the Board of Review shall elect one of its members as chairperson. The City Assessor shall be secretary of the Board and shall attend all meetings with the privilege of participating and commenting, but without the right to vote upon any decision of the Board. It shall be the duty of the secretary to keep a permanent record of all proceedings and to record all resolutions and decisions of the Board. A majority of the members of the Board shall constitute a quorum. The members of the Board shall take the oath of office which shall be filed with the City Clerk. For the purpose of reviewing and correcting assessments the Board of Review shall have all powers granted by law. It shall hear the complaint 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 deems just. No change of status of any property may be made after final consideration by the Board unless otherwise directed by a court or tribunal of competent jurisdiction.

Section 9.6. Endorsement of Roll.
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 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 completion of the roll, the same shall be the assessment roll of the City for county, school and City taxes and for any other taxes on real or 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 cause allowed for by law.

Section 9.7. Clerk to Certify Tax Levy.
Within seven (7) days after the City Council has adopted the budget for the ensuing year, the City Clerk shall certify to the City Assessor the total amount which the City Council determines shall be raised by general tax; all amounts of special assessments which the City Council requires to be assessed or reassessed upon any property or against any person; and all other amounts which the Council may determine shall be charged, assessed or reassessed against any person or property.
Section 9.8. City Tax Roll.
After the last day for the meeting of the Board of Review, the City Assessor shall, upon receiving the certification of several amounts to be raised, as provided in the preceding section, proceed forthwith to spread upon the assessment roll the several amounts determined by the City Council to be charged, assessed or reassessed against person or property; and shall also proceed to spread the amounts of the general City tax according to and in proportion to the several evaluations set forth in said assessment roll. For the purpose of avoiding fractions in computation, the City Assessor may add to the amount of the several taxes to be raised not more than one-half of one percent (0.5%). The amount so added shall belong to the City to the extent permitted by law.

Section 9.9. Tax Roll Certified for Collection.
Not later than June 15 of each year, the City Assessor shall certify said tax roll, with the warrant attached thereto, directing and requiring the City Treasurer to collect from the persons named therein the various sums mentioned and granting to the City Treasurer all powers and immunities possessed by Township Treasurers for the collection of taxes under law.

Section 9.10 Collection of Taxes.
City taxes shall be due and payable on the 1st day of July of each year. To all taxes paid after August 14th, there shall be added a penalty as permitted by law, and to all taxes paid after said date, there shall be added interest at the rate of one percent (1%) for each month or fraction thereof between said date and the date of payment, or the first day of March of the next succeeding calendar year, whichever date shall occur first. The added penalties and interest herein provided shall belong to the City and shall constitute a charge and a lien against the property to which the taxes themselves apply, collectible in the same manner as the taxes to which they are added.

Section 9.11. Delinquent Tax Roll to County Treasurer.
Any taxes on the City tax roll which remain unpaid the first day of March following the date when said roll was received by the City Treasurer shall be returned to the County Treasurer in the same manner and with like effect as returns by Township Treasurers for township, school and county taxes. Such returns shall be made upon a delinquent tax roll to be prepared by the City Treasurer and shall include all additional charges and fees hereinafter provided, which charges and fees shall be added to the amount assessed in said tax roll against each description. The taxes thus returned shall be collected in the same manner as other taxes returned to the County Treasurer and shall remain a lien upon the lands against which they are assessed until paid.

Section 9.12. Taxes as Lien on Property.
Every tax assessed shall become a lien upon such real property on the first day of July and liens for such amount and for all interest and other charges thereon shall continue until such taxes are paid. All personal property taxes shall be a first lien, prior, superior and paramount, upon all personal property of the person so assessed from and after the first day of July in each year and shall so remain until paid, which said tax lien shall have precedence over all other claims, encumbrances and liens upon said personal property whatsoever.

Section 9.13. Protection of City Liens.
The City shall have the power 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 such purchase is necessary to protect the lien of the City for taxes or special assessments, or both, on
said premises and may hold, lease or sell the same. Any such procedure exercised by the City for the protection of its tax lien shall be deemed to be for a public purpose.

For the purpose of assessing and collecting taxes, the City shall have the same powers and immunities as a township. Except as stated herein, all provisions of law pertaining to the collection of such taxes and the 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 City Treasurer, who shall perform the same duties and have the same powers as Township Treasurers under law.

CHAPTER X. PUBLIC IMPROVEMENTS AND SPECIAL ASSESSMENTS

Section 10.1. General Powers.

The City is hereby given the power to acquire, establish, construct and maintain streets, alleys, parks, parking places, public buildings, facilities for furnishing light, heat, power, water, sewage disposal and all other facilities for serving the interests of the residents of the City. The City shall have the power to determine that the whole or any part of the cost of any public improvement shall be defrayed by special assessment upon property in special assessment districts including the power of reassessment when property is especially benefited.

Section 10.2. Procedure Set By Ordinance.

The City Council shall prescribe, by ordinance, a complete special assessment procedure governing the initiation of projects, preparation of plans and cost estimates, notice of hearings, confirmation of the assessment rolls and any other matters concerning the making and financing of improvements by special assessments.

CHAPTER XI. MUNICIPALLY OWNED UTILITIES

Section 11.1. General Powers.

The City shall possess and hereby reserves to itself all the power granted to cities by law to acquire, construct, own, operate, improve, enlarge, extend repair, maintain and provide, either within or without its corporate limits, including but not limited to, public utilities for supplying water, light, heat, power, gas sewage treatment, land fill and garbage and trash disposal facilities.

The City shall have the power to sell and deliver such public utility services outside its corporate limits for a fee set by the City Council not to exceed any limitation established by law.

Section 11.2. Control of Utilities.

The City Council may enact such ordinances or adopt such resolution as may be necessary for the care, protection, preservation, control, and operation (of) any public utility owned or operated by the City.

Section 11.3. Rates and Charges.
The City Council shall provide for the charging of such just and reasonable rates as may be necessary for the operation of any utility.
Section 11.4. Collection of Utility Charges.
The City Council shall provide for the collection of all public utility charges and, for such purpose, shall have all the power granted to cities by law. When any person, firm or corporation shall fail or refuse to pay any utility charges due, the service upon which such delinquency exists may be discontinued, a lien subject to limitations imposed by state law, placed upon the premises to which service was provided and any and all procedures for collection, including suit in any court of competent jurisdiction, may be instituted by the City for the collection of such charges and may include the costs of collection.

Section 11.5. Accounts.
Accounts shall be kept for each public utility owned or operated by the City distinct from other City accounts, and in such a manner as to show the true and complete financial result thereof. The City Council shall annually cause to be made and published for public distribution, a report showing the financial results thereof, which report(s) shall give accurate and full information concerning the financial condition of said utilities and such further information as the City Council may require.

CHAPTER XII. FRANCHISES AND PERMITS

Section 12.1. Franchises.
The City Council shall have the power to grant franchises for the operation of public utilities within the City. All franchises shall be subject to revocation at the will of the City unless such franchises are approved by the voters pursuant to Article VII, Section 25 of the Constitution of 1963. All franchises presently in operation shall continue and not be deemed repealed by the adoption of this charter. All franchises, renewals, extensions, amendments, transfers and assignments shall only be granted by ordinance. No exclusive franchise shall be granted. No franchise shall be granted for a period longer than thirty (30) years. No proposed ordinance shall be submitted to the electors until the grantee has filed its unconditional acceptance of the franchise and paid to the City Treasurer a sum determined by the City Council to be sufficient to pay for the election expenses incurred as a result of submitting the proposed franchise to the electors. No franchise shall be transferred, directly or indirectly, except with the prior consent of the City Council.

Section 12.2. Right of Regulation.
A public utility or service franchise shall be subject to the right of the City:

A. To repeal the same for misuse or non-use, or failure to comply with the terms of the franchise.
B. To require proper and adequate extension of physical plant, service and the maintenance thereof at the highest practicable standards of efficiency;
C. To establish reasonable standards of service and quality of products, and to prevent unjust discrimination in services or rates;
D. To make independent audit and require explanation of accounts at any time, and to require reports annually;
E. To require continuous and uninterrupted service to the public in accordance with the terms of the franchise throughout the period thereof;
F. To use, control and regulate the use of its streets, alleys, bridges and public places and the space above and beneath them;
G. To impose such other regulations as may be determined by the City Council to be conducive to the safety, welfare and accommodation of the public.

Section 12.3. Regulation of Rates.
All public utility franchises shall make provisions for the fixing of rates, fares and charges and may provide for readjustments thereof at periodic intervals. The value of the property of the utility used as a basis for fixing such rates, fares and charges shall in no event include a value predicated upon the franchise, good will or prospective profits.

Section 12.4. Condemnation.
The City shall have the right to acquire by condemnation or otherwise the property of any public utility in accordance with law.

Section 12.5. Revocable Permits.
Temporary permits for public utilities, revocable at any time at the will of the City Council, may be granted by the City Council by resolution on such terms and conditions as it shall determine provided that such permits shall in no event be construed to be franchises or amendments to franchises.

Section 12.6. Assignment of Franchises.
No franchise granted by the City Council shall ever be leased, assigned, sold, transferred or otherwise alienated except with prior approval of the City Council.

Section 12.7. Joint Use.
Every public utility, during the term of its franchise, may be required by the City to permit joint use of its property, appurtenances and equipment located in the streets, alleys, right of ways and public places by the City or other public utilities, provided that such joint use is reasonable and upon payment of a reasonable rental. In the event of disagreement as to the reasonable rental, the City Council shall provide for binding arbitration as to the compensation, terms and conditions of the proposed joint use, which arbitration award shall be final.

Section 12.8. Use of Street and Public Places.
The right to use, control and regulate the use of its streets, alleys, bridges, right of ways and public places, and the space above and beneath them is hereby reserved to the City, to which every public utility shall be subject.

Every public utility shall pay any cost of improvement or maintenance which shall arise from its use of streets, alleys, bridges, right of ways and public places and shall indemnify and hold harmless the City from all liability, claims, demands, damages, costs, interest and attorney's fees arising, directly or indirectly, from the public utilities use of the streets, alleys, bridges, right of ways and public places.

CHAPTER XIII. MISCELLANEOUS

Section 13.1. No Estoppels by Representation.
No officer, employee, representative, agent or independent contractor of the City shall have the power to make any representation of fact in any franchise, contract, document or agreement which is contrary to any public record of the City. Any such representation shall be null, void and of no effect.

Section 13.2. Public Records.
Except where otherwise provided by law, all records of the City shall be public and in the English language.

Section 13.3. Publication.
When by this charter any officer is required to give publication to any notice, such notice shall also be posted in at least five (5) public places within the City.

Section 13.4. Headings.
The chapter and section headings used in this charter are for reference only and shall not be considered a part of this charter.

Section 13.5. Repeal of Prior City Charter.
All prior City ordinances, regulations, resolutions or policies or part thereof inconsistent with the provisions of this charter are hereby repealed. All prior ordinances, resolutions, regulations or policies or parts thereof which are consistent with the provisions herein, shall continue in full force until or unless repealed or amended.

Section 13.6. Affect of Illegality on Any Part of Charter.
Should any provision or section, or part thereof, of this charter be held by any 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 any of the remaining provisions or sections, or portions thereof; it being the intent of the Charter Commission and of the electors that such unconstitutionally or illegality shall not affect the validity of any part of this charter except that specifically affected by such holding. Further, it is declared that it was the intent of the Charter Commission and of the electors, in preparing and adopting this charter that said instrument should conform in all respects with the provisions and requirements of law. In the event that any provisions of this charter shall conflict with or contravene the provisions of any law, the provisions of that law shall govern and take precedence.

Section 13.7. Obligations Unaffected.
All taxes and assessments levied or assessed and all charges thereon and all fines and penalties imposed, uncollected at the time of this charter, shall be collected as if such change had not been made; if a different remedy is provided by this charter, or by any ordinance or resolution, the remedy shall be deemed cumulative to the remedies already provided.

Section 13.8. Amendment.
This charter may be amended at any time in the manner provided by law. Should two (2) or more amendments, adopted at the same election have conflicting provisions, the one receiving the highest number of votes shall prevail as to those provisions.

Section 13.9. Definitions.
Where the terms "person" or "persons" are used in this charter, they shall include any person, firm, partnership, association, corporation or entity recognized by law

CHAPTER XIV. SCHEDULE

Section 14.1. Purpose and Status of Schedule.
The purpose of this schedule chapter is to inaugurate the government of the City of Galesburg under this charter and to provide for the transition of the government of the City under the previous charter. It shall constitute a part of this charter only to that extent and for the time required to accomplish that purpose.

Section 14.2. Officers of the City.
The elected officers of the City holding office on the effective date of this charter shall continue to hold the offices to which they were elected for the balance of the terms for which they were elected and shall conduct their several offices subject to the provisions of this charter. When the terms of the elected officers expire, they shall be elected in accordance with the provisions of this charter.

Section 14.3. Council Compensation.

Prior to the initial recommendation of the Local Officers Compensation Commission, the Mayor shall receive a salary in the amount of sixty dollars ($60.00) per meeting attended and each other Council member shall receive fifty dollars ($50.00) per meeting attended for up to twenty (20) regular Council meetings per year to be paid monthly. All Council members shall receive ten dollars ($10.00) for each special meeting attended for up to six (6) such meetings per year.

Section 14.3. Council Compensation (Adopted by City Council meeting on June 3, 2002).

Mike Kupiecki moved in accordance with the duties of the Local Compensation Commission, Galesburg, City Charter, Section 14.3 and with the approval of the Galesburg City Council. The City Council and Mayor shall be compensated, for expenses incurred in the performance of their duties upon submission of records, logs and/or receipts documenting expenditures realized therefrom and receive the following: The Mayor of the City of Galesburg shall receive $75.00 per regular City Council meeting attended, $20.00 per Special/Emergency meeting attended, $10.00 per Council appointed meeting attended and $10.00 per meeting attended in which the Mayor is acting upon his/her official duties representing the City of Galesburg, as described above. City Council Members shall receive $50.00 per regular City Council meeting attended, $20.00 per Special/Emergency meeting attended, $10.00 per Council appointed meeting attended. The Vice Mayor, acting in the Mayor’s absence shall receive the Mayor’s rate of pay for duties attended or performed in the Mayor’s absence. It is the Local Compensation Commission’s recommendation this have an effective date of July 1, 2002. Owen Smith supported the motion. Roll call vote, all ayes.

Adopted June 3, 2002.

Section 14.4. Election of Charter Created Council Members.

For the vacancies created by approval of this charter, increasing the size of the City Council from five (5) members to seven (7) members, the City Council shall appoint those two (2) new members to serve until December 31, 1996. For those members of City Council elected at the first regular municipal election following approval of this charter the three (3) highest vote getters shall serve a four (4) year term with the fourth highest vote getter to serve a two (2) year term. By implementing this provision, terms of City Council members will correspond to the staggered terms as set forth in Section 3.2B.

Section 14.5. Election.

This charter shall be submitted to a vote of qualified electors of the City of Galesburg at an election which shall be held on August 6, 1996. All provisions for the submission of the question of adopting this charter at such election shall be made in the manner provided by law. If at such election, the majority of electors voting thereon shall vote in favor of the adoption of this charter, then the City Clerk shall perform all other acts required by law to carry this charter into effect.
**Section 14.6. Ballot Question.**
Shall be proposed charter be adopted as the charter for the City of Galesburg:

Instruction: A "yes" vote indicates that you are in favor of the adoption of the proposed charter. A "no" vote indicates that you are opposed to the adoption of the proposed charter.

Yes ☐
No ☐

**Section 14.7. Effective Date of Charter.**

If this charter is adopted at the election thereon, it shall take effect and become the charter of the City of Galesburg on September 1, 1996.

DATED: April 29, 1996.
PART II
CODE OF ORDINANCES

Chapter 1

2GENERAL PROVISIONS

The ordinances embraced in this and the following chapters shall constitute and be designated the "Code of Ordinances, City of Galesburg, Michigan," and may be so cited. Such ordinances may also be cited as the "Galesburg City Code."
(Code 2005, §1-1.)

The following definitions and rules of construction shall apply to this Code and to all ordinances and resolutions unless the context requires otherwise:

Generally. When provisions conflict, the specific shall prevail over the general. All provisions shall be liberally construed so that the intent of the council may be effectuated. Words and phrases shall be construed according to the common and approved usage of the language, but technical words, technical phrases and words and phrases that have acquired peculiar and appropriate meanings in law shall be construed according to such meanings.

Charter. The term "Charter" means the Charter of the city.

City. The term "city" means the City of Galesburg, Michigan.

City council, council. The terms "city council" and "council" mean the city council of the city.

Civil infraction. The term "civil infraction" means an act or omission prohibited by law which is not a crime and for which civil sanctions may be ordered.

Code. The term "Code" means the Code of Ordinances, City of Galesburg as designated in section 1-1.

Computation of time. In computing a period of days, the first day is excluded and the last day is included. If the last day of any period of a fixed or final day is a Saturday, Sunday, or legal holiday, the period or day is extended to include the next day that is not a Saturday, Sunday, or legal holiday.

Conjunctions. In a provision involving two or more items, conditions, provisions or events, which items, conditions, provisions or events are connected by the conjunction "and/or or "either/or," the conjunction shall be interpreted as follows:

(1) The term "and" indicates that all the connected terms, conditions, provisions or events apply.

(2) The term "or" indicates that the connected terms, conditions, provisions or events apply singly or in any combination.

3State law reference—Authority to codify ordinances MCL 117.5b
33 State law reference—Definitions and rules of construction applicable to state statutes, MCL 8.3 et seq.
(3) The term "either ... or" indicates that the connected terms, conditions, provisions or events apply singly but not in combination.

Crime. The term “crime” means an act or omission forbidden by law that is not designated as a civil infraction and that is punishable upon conviction by any one or more of the following:

(1) Imprisonment.

(2) Fine not designated a civil fine.

(3) Other penal discipline.

County. The term "county" means Kalamazoo County, Michigan.

Delegation of authority. A provision that authorizes or requires a city officer or city employee to perform an act or make a decision authorizes such officer or employee to act or make a decision through subordinates.

Gender. Words of one gender include the other genders.

Health department. The terms "health department" and "department of public health" mean the county health department.

Health officer. The term "health officer" means the director of the county health department.

Highway. The term "highway" includes any street, alley, highway, avenue, or public place or square, bridge, viaduct, tunnel, underpass, overpass or causeway, dedicated or devoted to public use.

Includes, including. The terms "includes" and "including" are terms of enlargement and not of limitation or exclusive enumeration, and the use of the terms does not create a presumption that components not expressed are excluded.

Joint authority. A grant of authority to three or more persons as a public body confers the authority on a majority of the number of members as fixed by statute or ordinance.

May. The term "may" is to be construed as being permissive and not mandatory.

May not. The term "may not" states a prohibition.

Month. The term "month" means a calendar month.

Must. The word "must" is to be construed as being mandatory.

Number. The singular includes the plural and the plural includes the singular.

Oath, affirmation, sworn, affirmed. The term "oath" includes an affirmation in all cases where an affirmation may be substituted for an oath. In similar cases, the "sworn" includes the term "affirmed."

Officers, departments, etc. References to officers, departments, boards, commissions or employees are to city officers, city departments, city boards, city commissions and city employees.
Owner. The term "owner," as applied to property, includes any part owner, joint owner, tenant in common, tenant in partnership, joint tenant or tenant by the entirety of the whole or part of such property. With respect to special assessments, however, the owner shall be considered to be the person who appears on the assessment roll for the purpose of giving notice and billing.

Person. The word "person" means any individual, partnership, corporation, association, club, joint venture, estate, trust, limited liability company, governmental unit, and any other group or combination acting as a unit, and the individuals constituting such group or unit.

Personal property. The term "personal property" means any property other than real property.

Preceding, following. The terms "preceding" and "following" mean next before and next after, respectively.

Premises. The term "premises," as applied to real property, includes land and structures.

Property. The term "property" means real and personal property.

Public acts. References to public acts are references to the Public Acts of Michigan. (For example, a reference to Public Act No. 279 of 1909 is a reference to Act No. 279 of the Public Acts of Michigan of1909.) Any reference to a public act, whether by act number or by short title is a reference to the act as amended.

Real property, real estate, land, lands. The term "real property" includes lands, tenements and hereditaments.

Roadway. The term "roadway" means that portion of a street improved, designed or ordinarily used for vehicular traffic.

Shall. The term "shall" is to be construed as being mandatory.

Sidewalk. The term "sidewalk" means any portion of the street between the curb, or the lateral line of the roadway, and the adjacent property line, intended for the use of pedestrians.

Signature, subscription. The terms "signature" and "subscription" include a mark when the person cannot write.

State. The term "state" means the State of Michigan.

Street. The term "street" means any street, alley, highway, avenue, or public place or square, bridge, viaduct, tunnel, underpass, overpass or causeway, dedicated or devoted to public use.

Swear. The term "swear" includes affirm.

Tenses. The present tense includes the past and future tenses. The future tense includes the present tense.

Week. The term "week" means seven consecutive days.

Written. The term "written" includes any representation of words, letters, symbols or figures.
Year. The term “year” means 12 consecutive months.
(Code 2005, §1-2),

4Sec. 1-3. Catchlines of sections; history notes; references.

(a) The catchlines of the several sections of this Code printed in boldface type are intended as mere catchwords to indicate the contents of the section and are not titles of such sections, or of any part of the section, nor unless expressly so provided shall they be so deemed when any such section, including the catchline, is amended or reenacted.

(b) The history or source notes appearing in parenthesis after sections in this Code have no legal effect and only indicate legislative history. Charter references, cross references and state law references that appear in this Code after sections or subsections or that otherwise appear in footnote form are provided for the convenience of the user of the Code and have no legal effect.

(c) Unless specified otherwise, all references to chapters or sections are to chapters or sections of this Code.

(Code 2005, §1-3.)

5Sec. 1-4. Effect of repeal of ordinances.

(a) Unless specifically provided otherwise, the repeal of a repealing ordinance does not revive the ordinance originally repealed nor impair the effect of any saving provision in it.

(b) The repeal or amendment of an ordinance does not affect any punishment or penalty incurred before the repeal took effect, nor does such repeal or amendment affect any rights, privileges, suit, prosecution or proceeding pending at the time of the amendment or repeal.

Sec. 1-5. Amendments to Code; effect of new ordinances; amendatory language.

(a) All ordinances adopted subsequent to this Code that amend, repeal or in any way affect this Code may be numbered in accordance with the numbering system of the Code and printed for inclusion in the Code. Portions of this Code repealed by subsequent ordinances may be excluded from this Code by omission from reprinted pages affected thereby.

(b) Amendments to provisions of this Code may be made with the following language: “section (chapter, article, division or subdivision, as appropriate) of the Code of Ordinances, City of

4 State law reference—Catchlines in state statutes, MCL 8.4b
5 State law reference—Effect of repeal of state statutes, MCL 8.4b
Galesburg, Michigan, is hereby amended to read as follows ...

(c) If a new section, subdivision, division, article or chapter is to be added to the Code, the following language may be used: "section (chapter, article, division or subdivision, as appropriate) of the Code of Ordinances, City of Galesburg, Michigan, is hereby created to read as follows ...

(d) All provisions desired to be repealed should be repealed specially by section, subdivision, division, article or chapter number, as appropriate, or by setting out the repealed provisions in full in the repealing ordinance.

(Code 2005,§1-5.)


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

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

(c) When preparing a supplement to this Code, the person authorized to prepare the supplement may make formal, nonsubstantive changes in ordinances included in the supplement insofar as necessary to do so in order to embody them into a unified code. For example, the person may:

(1) Arrange the material into appropriate organizational units.

(2) Supply appropriate catchlines, headings and titles for chapters, articles, divisions, subdivisions and sections to be included in the Code and make changes in any such catchlines, headings and titles or in any such catchlines, headings and titles already in the Code.

(3) Assign appropriate numbers to chapters, articles, divisions, subdivisions and sections to be added to the Code.

(4) Where necessary to accommodate new material, change existing numbers assigned to chapters, articles, divisions, subdivisions or sections.

(5) Change the words "this ordinance" or similar words to "this chapter," "this article," "this division," "this subdivision," "this section” or “sections 55555_ to 55555555_”(inserting section
numbers to indicate the sections of the Code that embody the substantive sections of the ordinance incorporated in the Code).

(6) Make other nonsubstantive changes necessary to preserve the original meaning of the ordinances inserted in the Code.

Sec. 1-7. Service of Notice

Except where the manner of serving of notice is specifically provided for in sections of the city Charter or in any section of this Code requiring notice, notice shall be served in the following manner:

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

(2) By mailing thereof, by registered or certified mail, to such owner at his last known residence or business address; or

(3) By posting said notice in some conspicuous place on the premises of his last known residence or business address; or

(4) By publication of such notice in a newspaper having a general circulation in the city.

(Code 2005,§1-7.)

Sec. 1-8. Interference with notices of the city.

No person shall interfere with, obstruct, mutilate, conceal or tear down any official notice posted by any city officer unless permission therefor is given by the officer.

(Code 2005,§1-8.)

Sec. 1-9. Publication of rules and regulations.

Except as otherwise provided by this Code, all rules and regulations made by the administrative officers 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.

(Code 2005,§1-9.)

6Sec. 1-10. General penalty; continuing violations.

(a) In this section "violation of this Code" means any of the following:

(1) Doing an act that is prohibited or made or declared unlawful, an offense, or a violation by ordinance or by rule or regulation authorized by ordinance.

6 State law reference—Penalty for ordinance violations, MCL 117.41(k), 117.41
(2) Failure to perform an act that is required to be performed by ordinance or by rule or regulation authorized by ordinance.
(3) Failure to perform an act if the failure is prohibited or is made or declared unlawful, an offense, or a violation by ordinance or by rule or regulation authorized by ordinance.

(b) Any provision of this Code that is made or declared to be a misdemeanor, civil infraction or municipal civil infraction is a violation of this Code.

(c) In this section "violation of this Code" does not include the failure of a city officer or city employee to perform an official duty unless it is specifically provided that the failure to perform the duty is to be punished as provided in this section.

(d) Except as specifically provided otherwise by state law or city ordinance, all violations of this Code are misdemeanors. Except as otherwise provided by law or ordinance, a person convicted of a violation of this Code that is a misdemeanor shall be punished by a fine not to exceed $500.00, and costs of prosecution or by imprisonment for a period of not more than 90 days, or by both such fine and imprisonment. However, unless otherwise provided by law, a person convicted of violation of this code which substantially corresponds to a violation of state law that is a misdemeanor for which the maximum period of imprisonment is 93 days, is punishable by fine not to exceed $500.00, and costs of prosecution or by imprisonment for a period of not more than 93 days, or by both such fine and imprisonment.

(e) Except as otherwise provided by law or ordinance, with respect to violations of this Code that are continuous with respect to time, each day that the violation continues is a separate offense. As to other violations, each violation constitutes a separate offense.

(f) The imposition of a penalty does not prevent suspension or revocation of a license, permit or franchise or other administrative sanctions.

(g) Violations of this Code that are continuous with respect to time are a public nuisance and may be abated by injunctive or other equitable relief. The imposition of a penalty does not prevent injunctive relief or civil or quasi-judicial enforcement.

(Code 2005,§1-10.)

7 Sec. 1-11. Severability.
If any provision of this Code or its application to any person or circumstances is held invalid or unconstitutional, the invalidity or unconstitutionality does not affect other provisions or application of this Code that can be given effect without the invalid or unconstitutional provision or application, and to this end the provisions of this Code are severable.
(Code 2005,§1-11)


7 State law reference—Severability of state statutes, MCL 8.5
8 State law reference—Similar provisions as to state statutes, MCL 8.3uu
The provisions of this Code, insofar as they are substantially the same as legislation previously adopted by the city relating to the same subject matter, shall be construed as restatements and continuations thereof and not as new enactments.

(Code 2005,§1-12)

**Sec. 1-13. Code does not affect prior offenses or rights.**

(a) Nothing in this Code or the ordinance adopting this Code affects any offense or act committed or done, any penalty or forfeiture incurred, or any contract or right established before the effective date of this Code.

(b) The adoption of this Code does not authorize any use or the continuation of any use of a structure or premises in violation of

(Code 2005,§1-13)

**Sec. 1-14. Certain ordinances not affected by Code.**

(a) Nothing in this Code or the ordinance adopting this Code affects the validity of any ordinance or portion of any ordinance:

1. Annexing property into the city or describing the corporate limits.
2. Deannexing property or excluding property from the city.
3. Promising or guaranteeing the payment of money or authorizing the issuance of bonds or other instruments of indebtedness.
4. Authorizing or approving any contract, deed, or agreement.
5. Granting any right or franchise.
6. Making or approving any appropriation or budget.
7. Providing for the duties of city officers or employees not codified in this Code.
8. Providing for salaries or other employee benefits.
9. Adopting or amending a comprehensive plan.
10. Levying or imposing any special assessment.
11. Dedicating, establishing, naming, locating, relocating, opening, paving, widening, repairing or vacating any street, sidewalk or alley.
12. Establishing the grade or any street or sidewalk.
13. Dedicating, accepting or vacating any plat or subdivision.
14. Not codified in this Code that levies, imposes or otherwise relates to taxes, exemptions from taxes and fees in lieu of taxes.
15. Pertaining to rezoning property or adopting the zoning map.
16. That is temporary, although general in effect.
17. That is special, although permanent in effect.
18. The purpose of which has been accomplished.

(b) The ordinances or portions of ordinances designated in subsection (a) of this section continue in full force and effect to the same extent as if published at length in this Code.

(Code 1986,§1-14.)
## CHARTER COMPARATIVE TABLE

### ORDINANCES

This table shows the location of the sections of the basic Charter and any amendments thereto.

<table>
<thead>
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<th>Ordinance</th>
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Published by Order of the City Council
PREFACE

This Code constitutes a recodification of the general and permanent ordinances of the City of Galesburg, Michigan.

Source materials used in the preparation of the Code were the 2005 Code and ordinances subsequently adopted by the city council. The source of each section is included in the history note appearing in parentheses at the end thereof. The absence of such a note indicates that the section is new and was adopted for the first time with the adoption of the Code. By use of the comparative tables appearing in the back of this Code, the reader can locate any section of the 1986 Code, as supplemented, and any subsequent ordinance included herein.

The chapters of the Code have been conveniently arranged in alphabetical order, and the various sections within each chapter have been catchlined to facilitate usage. Notes which tie related sections of the Code together and which refer to relevant state law have been included. A table listing the state law citations and setting forth their location within the Code is included at the back of this Code.

Chapter and Section Numbering System

The chapter and section numbering system used in this Code is the same system used in many state and local government codes. Each section number consists of two parts separated by a dash. The figure before the dash refers to the chapter number, and the figure after the dash refers to the position of the section within the chapter. Thus, the second section of chapter 1 is numbered 1-2, and the first section of chapter 6 is 6-1. Under this system, each section is identified with its chapter, and at the same time new sections can be inserted in their proper place by using the decimal system for amendments. For example, if new material consisting of one section that would logically come between sections 6-1 and 6-2 is desired to be added, such new section would be numbered 6-1.5. New articles and new divisions may be included in the same way or, in the case of articles, may be placed at the end of the chapter embracing the subject, and, in the case of divisions, may be placed at the end of the article embracing the subject. The next successive number shall be assigned to the new article or division. New chapters may be included by using one of the reserved chapter numbers. Care should be taken that the alphabetical arrangement of chapters is maintained when including new chapters.

Page Numbering System

The Table of Contents at the beginning of this Code of Ordinances indicates the Page Numbers of each Ordinance, Article, Division and Section. If reading the Code of Ordinances online, simply hold down the Ctrl key and left click your mouse in the Table of Contents and you will be taken to the Page number you desired.

Index

The indexes have been prepared with the greatest of care. Each particular item has been placed under several headings, some of which are couched in lay phraseology, others in legal terminology, and still others in language generally used by local government officials and employees. There are numerous cross references within the indexes themselves which stand as guideposts to direct the user to the particular item in which the user is interested.

Loose-leaf Supplements
A special feature of this publication is the loose-leaf system of binding and supplemental servicing of the publication. With this system, the publication will be kept up-to-date. Subsequent amendatory legislation will be properly edited, and the affected page or pages will be reprinted. These new pages will be distributed to holders of copies of the publication, with instructions for the manner of inserting the new pages and deleting the obsolete pages.

Keeping this publication up-to-date at all times will depend largely upon the holder of the publication. As revised pages are received, it will then become the responsibility of the holder to have the amendments inserted according to the attached instructions. It is strongly recommended by the publisher that all such amendments be inserted immediately upon receipt to avoid misplacing them and, in addition, that all deleted pages be saved and filed for historical reference purposes.

Acknowledgments
CHAPTER 2
ADMINISTRATION

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ARTICLE II. BOARDS, COMMISSIONS AND COMMITTEES

DIVISION 1. GENERALLY

Secs. 2-16-2-30. Reserved.

DIVISION 2. LOCAL OFFICERS COMPENSATION COMMISSION*

Sec. 2-31. Legislative findings and purpose.

The city council adopts this division to establish a local officers compensation commission pursuant to section 4.6 of the revised city Charter which became effective September 1, 1996, and the provisions of Public Act No. 279 of 1909 (MCL 117.5c).
(Code 2005, §2-31)

Sec. 2-32. Definitions.

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

Commission means each of the members of the local officers’ compensation commission established by this division.

Compensation means the salary exclusive of expense allowances or reimbursements determined by the commission for each official.

Official means each of the elected members of the city council, being the mayor and the six additional council members.

Session days means a calendar day on which the commission meets and a quorum is present.
(Code 2005, §2-32)

Sec. 2-33. Created.

*A local officers compensation commission consisting of five members is created to determine the salary of each official of the city.
(Code 2005, §2-33)

9A State law reference—Local officers’ compensation commission, MCL 117.5c.
Sec. 2-34. Membership.

Each member of the commission shall be a registered elector in the city during the term of his or her office.
(Code 2005, §2-34)

Sec. 2-35. Appointment by mayor.

Each member of the commission shall be appointed by the mayor upon confirmation of a majority vote of the total number of members serving on the city council.
(Code 2005, §2-35)

Sec. 2-36. Term of office.

For the initial appointment to the commission, one member each shall be appointed for terms of one, two, three, four and five years, respectively. Thereafter, the term of office for each member appointed to the commission shall be five years.
(Code 2005, §2-36)

Sec. 2-37. Time of appointment.

Members, other than the first members of the commission, shall be appointed before October 1 of the year in which he or she is appointed. The first members of the commission shall be appointed within 30 days of the effective date of the ordinance from which this division is derived.
(Code 2005, §2-37)

Sec. 2-38. Vacancies.

Whenever a vacancy occurs as a result of the resignation, death or ineligibility of a member prior to the expiration of his or her term, the mayor shall appoint under the provisions of sections 2-34 and 2-35 another person to complete the unexpired term created by the vacancy.
(Code 2005, §2-32)

Sec. 2-39. Ineligibility.

Any individual who is a member or employee, including being a member of the immediate family of a member or an employee, of the legislative or executive branch of the city shall not be a member of the commission.
(Code 2005, §2-39)

Sec. 2-40. Duties and responsibilities.

(a) Commission to determine compensation. The commission shall determine the salaries of each official. The determination shall be the salary of the official, unless the city council, by resolution adopted by two-thirds vote of the total number of members of the city council, rejects it.
(b) Approval or rejection of salaries. The determination of the salaries of the officials by the commission shall be effective 30 days following its filing with the City Clerk, unless rejected by the city council. If the determination is rejected by the city council, the existing salary for the officials shall prevail.
(c) Expense allowance and reimbursement. The expense allowance or reimbursement paid to officials, in addition to salary, shall be only for expense incurred in the course of city business and accounted for to the city.

(Code 2005,§2-40)

Sec. 2-41. Meetings.

(a) Time limit. The commission shall meet for not more than 15 session days in each odd numbered year.

(b) Action on determination of compensation. The commission shall make its determination regarding the compensation for the officials within 45 calendar days after its first meeting.

(c) Quorum. A majority of the members of the commission constitute a quorum for conducting the business of the meeting.

(d) Majority vote required. No action or determination is valid unless approved by a majority of the members appointed and serving on the commission.

(e) Chairperson. The commission shall elect a chairperson from amongst its members to direct business conducted at any meeting of the commission, and may elect a secretary to record the minutes of the business conducted at any meeting of the commission.

(f) Open meeting. The business which the commission may perform shall be conducted at a public meeting held in compliance with the Open Meetings Act (MCL 15.261 et seq.). Public notice of the time, date and place of the meeting of the commission shall be governed in the manner required by the Open Meetings Act.

(Code 2005,§2-41)

Sec. 2-42. Expenses of members.

Members of the commission shall not receive compensation for their service, but a member shall be entitled to actual and necessary expenses incurred in the performance of his or her official duties.

(Code 2005,§2-42)

Sec. 2-43. Changes in procedure.

City council may, by resolution, and within one year of the effective date of this ordinance, implement a change in procedure for establishing compensation. After one year from the effective date of this ordinance, the procedure for establishing compensation of the local officials may be changed only by Charter amendment or revision.

(Code 2005,§2-43)

Sec. 2-44. Penalty for violation of division.

Any member of the commission who knowingly violates any of the provisions of this ordinance may be removed from serving on the commission by a majority vote of the city
council, and, in addition, is subject to the general penalty provisions of section 1-10 of this Code.
(Code 2005,§2-44)

Sec. 2-45. Compliance with Freedom of Information Act.

A writing prepared, owned, used, in the possession of, or retained by the commission in the performance of an official function shall be made available to the public in compliance with the Freedom of Information Act (MCL 15.231 et seq.).
(Code 2005,§2-45)

Secs. 2-46-2-60. Reserved.

DIVISION 3. PERSONNEL POLICY COMMITTEE

Sec. 2-61. Legislative findings and purpose.

The city council adopts this division to establish a personnel policy committee pursuant to sections 5.7A and 5.7B of the revised city Charter.
(Code 2005,§2-61)

Sec. 2-62. Creation.

A personnel policy committee consisting of three members of the city council is created to establish, regulate and maintain a merit system governing the personnel policies necessary for the effective administration of the employees of city departments, offices and agencies, including, but not limited to, classification and pay plans, examinations, force reduction, removals, working conditions, provisional exempt appointments, in service training, grievances and relationships with employee organizations, and any other matters deemed by the committee to be appropriate for the effective governing and administration of personnel policies.
(Code 2005,§2-62)

Sec. 2-63. Appointment.

Each member of the committee shall be appointed by the mayor upon confirmation of the majority vote of the total number of members serving on the city council.
(Code 2005,§2-63)

Sec. 2-64. Term of Office.

For the initial appointment to the committee, one member shall be appointed for term of one year, and the remaining two members for two years. Thereafter, the term of office for each member appointed to the committee shall be two years. At least one member shall have a term of office on the city council which expires on a different year than the other members.
(Code 2005,§2-64)

Sec. 2-65. Duties and responsibilities.
(a) *Policies and procedures manual.* The committee shall develop, review, and maintain a personnel policies and procedures manual governing personnel policies for all city employees, other than the mayor and members of the city council.

(b) *Scope of personnel policies and procedural manual.* The personnel policies and procedures manual shall establish, regulate and maintain a merit system governing the personnel policies, including, but not limited to, classification and pay plans, examinations, force reduction, removals, working conditions, provisional exempt appointments, in service training, grievance and relationships with employee organizations.

(c) *Additional provision.* The committee may recommend such further rules and regulations which it deems important to the effective administration of the employees of city departments, offices, and agencies.

(d) *Adoption by council.* All provisions, rules or regulations contained in the personnel policies and procedures manual, including subsequent amendments, are only effective if adopted by resolution confirmed by a majority vote of the total number of members serving on the city council.

(Code 2005,§2-32)

**Sec. 2-66. Meetings.**

(a) *Times.* The committee shall meet no less than four times in each fiscal year.

(b) *Recommendations.* The committee shall, prior to the first regular meeting of city council in October of each year, prepare a written report recommending any additions, deletions or modifications to the personnel policies and procedures manual. In addition, the committee may recommend changes to the personnel policies and procedures manual at any other regular or special meeting of the city council.

(c) *Quorum.* The majority of the members of the committee constitute a quorum for conducting the business of the meeting.

(Code 2005,§2-66)

**Secs. 2-67-2-90. Reserved.**

**DIVISION 4. HISTORICAL MUSEUM BOARD**

**Sec. 2-91. Created; membership.**

There is hereby created a city historical museum board which shall consist of five members who shall, in so far as practical, be chosen from and with the advice of the Galesburg Historical Museum Association. The members shall be appointed by the mayor with the approval of the city council for terms of three years, provided, however, that in the event that a vacancy shall occur during the term of a member, the successor shall be appointed for the unexpired term of the member. Members shall serve without compensation.

(Code 2005,§2-91)

**Sec. 2-92. Officers and meetings.**
The historical museum board shall elect from its membership a chairperson and a vice chairperson and shall meet at such time as the board shall determine. The board shall also appoint a secretary who need not be a member of the board. A majority of the members of the board shall constitute a quorum.
(Code 2005,§2-92)

Sec. 2-93. Powers and duties.

The historical museum board shall:

(1) Submit a recommended budget and budget information in the same manner and at the same time as the other departments of the city. The board shall be subject to the same accounting procedures in the administration of its budget as are other departments of the city.

(2) With the approval of the city council, establish policies for the operation of the museum and have charge of the museum.

(3) Be responsible for the routine maintenance and operation of the museum building under the rules and regulations established by it with the approval of the city council.

(4) Each year file a report with the city council. The report shall contain, among other items, a summary of the board's action during the past year and a summary of the operations of the museum for the past year.
(Code 2005,§2-93)

Sec. 2-94. Records.

The historical museum board shall keep a written record of all its business and transactions. The records shall be filed with the city clerk and shall be a public record available for public inspection.
(Code 2005,§2-94)

Sec. 2-95. Donations and gifts.

Any monies and gifts to the city for the use of the Galesburg Museum shall be held by the city treasurer in a special fund and disbursed only at the direction of the museum board.
(Code 2005,§2-95)
Chapters 3-5
RESERVED
Chapter 6

ALCOHOLIC LIQUOR*

Sec. 6-1. Definitions
Sec. 6-2. Consumption in public
Sec. 6-3. Proof of age

CHAPTER 6
ALCOHOLIC LIQUOR

Sec. 6-1. Definitions.

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

Alcoholic liquor and license when used in this chapter shall be as defined in Public Act 58 of
1998 (MCL 436.1101 et seq.).
(Code 2005,§6-1)

Sec. 6-2. Consumption in public.

No alcoholic liquor shall be consumed on the public streets or in any other public places,
including any store or establishment doing business with the public not licensed to sell alcoholic
liquor for consumption on the premises; nor shall anyone who owns, operates or controls any
such public establishment or store permit the consumption of alcoholic liquor therein.
(Code 2005,§6-2)

Sec. 6-3. Proof of age.

The person in charge of any beer garden, restaurant, tavern, store or place where alcoholic
beverages are sold or furnished for consumption either on or away from the premises, shall have
the right at any time to demand of any person offering to buy, buying, obtaining, or drinking any
alcoholic beverage in such establishment who may appear to him to be under the age of 21
years, proof of age and identity and on failure of such person to produce same, shall refuse to
serve, sell or furnish such person with any alcoholic beverage and may exclude such person
from such place of business. If any such person shall refuse to leave such place of business, he
shall be termed a disorderly person, and subject to the penalties provided in section 1-10 of this
Code.
(Code 2005,§6-3)
Chapter 10 (In process of being amended)
ANIMALS

Article I. In General

Sec. 10-1. Control of animals.
Sec. 10-2. Wild animals.
Sec. 10-3. Disclaimer.
Sec. 10-4. Detention of animals and poultry.
Sec. 10-5. Violations.
Secs. 10-6-10-21. Reserved.

Article II. Dogs

Sec. 10-22. Unlawful Conduct
Sec. 10-23. Running at large
ARTICLE I. IN GENERAL

Sec. 10-1. Control of animals.

No ass, mule, swine, sheep, goat, cow, bull or other cattle, honey bees, bumble bees, hornets, snakes, and no geese, ducks, chickens or other domestic fowl or poultry, no pigeons or rabbits shall be kept or maintained within the city, subject to the following provisions concerning dogs, cats and horses.

Dogs and cats which are family pets subject to the terms and conditions set out herein, are permitted.

Sec. 10-2. Wild animals.

It is unlawful for any person, other than a publicly maintained and supervised zoo, zoological garden or duly authorized licensed circus, or an educational institution to keep and maintain or permit to be kept and maintained any dangerous animal or poisonous reptile or any lion, cougar, jaguar, puma, wild cat, lynx, tiger, cheetah, monkey, baboon, chimpanzee, or other undomesticated animals within the city, except for animals trained as service animals. (Code 2005, §10-2)

Sec. 10-3. Disclaimer.

The city shall not be responsible for damages done by any animal or fowl which is kept or maintained or is running at large in violation of this chapter. (Code 2005, §10-3)

Sec. 10-4. Detention of animals and poultry.

Persons authorized by the city shall have the power to take up and detain, in some convenient place provided for by the chief of police, any horse, ass, mule, swine, sheep, goat, cow, bull or other cattle, honey bees, bumble bees, hornets, snakes, and geese, ducks, chickens or other domestic fowl or poultry, pigeons or rabbits, dogs or cats running at large anywhere within the limits of the city, contrary to the provisions of this Code and the owner of said animal or fowl shall be required to pay all costs to the city for such detentions. (Code 2005, §10-4)

Sec. 10-5. Violations.

Any violation of this chapter is hereby determined to be a nuisance per se and the city may forthwith obtain an order from a court of competent jurisdiction ordering the abatement of such nuisance, and if the danger to the health, safety and/or welfare of the public or persons at or near the property is imminent, the police officer or the ordinance officer of the city may forthwith enter upon the premises and abate the nuisance. (Code 2005, §10-6)

Sec. 10-6. Penalty.

12 State law reference—Animal control ordinances, MCL 287.290 et seq.
13 State law reference—Animal control officers, MCL 287.289c et seq.
Notwithstanding any other provisions herein, any person who shall violate the provisions of this chapter shall be guilty of a violation of this Code punishable as prescribed in Section 1-10 of this Code.

Secs. 10-7-10-21. Reserved.

**ARTICLE II. DOGS**

**Sec. 10-22. Unlawful conduct.**

It shall be unlawful for any person to own or harbor a dog which:
- At any time, whether such dog is licensed or unlicensed, has destroyed property or habitually trespasses in a damaging way, or habitually commits a nuisance on the property of persons other than the owner or the person harboring said dog;
- At any time, licensed or unlicensed, has attacked or bitten a person, and the council specifically states that a dog is not entitled to one bite;
- Shows vicious habits and molests passers-by when lawfully on a public highway whether or not said dog is on a public highway;
- Habitually runs or barks at pedestrians, teams or vehicles, motorcycles or anything else. This subsection shall not apply to a dog that is on its owner's property;
- Habitually howls, barks, whines or bays to the annoyance of the public;
- Is kept upon the premises of the owner or the person harboring said dog under such unsanitary conditions that the maintenance or keeping of said dog creates vile smells to the annoyance of the public in the vicinity.

(Code 2005,§10-22)

**Sec. 10-23. Running at large.**

No dog shall be permitted to run at large in the city, and it shall be the responsibility of the owner or person harboring the dog to securely fasten the dog within the owner’s yard or the harborer’s yard, or maintain a fence which will adequately contain said dog.

(Code 2005,§10-23)

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14 State law reference—Dog Law of 1919, MCL 287.261 et seq. including amendments)
Chapters 11-13

RESERVED
Chapter 14
BUILDINGS AND BUILDING REGULATIONS

Article I. In General
Sec. 14-1. Mobile home installation and occupancy.
Secs. 14-2-14-16. Reserved.

Article II. Building Code
Sec. 14-17. Enforcement.
Sec. 14-19. Fees.
Sec. 14-20. Violations.
Secs. 14-21-14-32. Reserved.

Article III. Swimming Pools (Per Ordinance 274; effective 9/30/2019)
Sec. 14-33. Construction permit.
Sec. 14-34. Above-ground/or portables pools.
Sec. 14-35. Definitions.
Sec. 14-37. Application.
Sec. 14-38. Construction Standards.
Sec. 14-39. Water Supply
Sec. 14-40. Enclosures.
Sec. 14-41. Penalties.
Sec. 14-42. Civil actions.
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Article IV. Dangerous Buildings
Sec. 14-51. Dangerous Buildings Defined
Sec. 14-52. Prohibition.
Sec. 14-53. Notice
Sec. 14-54. Hearing Officer: Duties
Sec. 14-55. Hearing
Sec. 14-56 Work Done by City
Sec. 14-57. Appeal
Sec. 14-58 Securing Premises
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Article V Floodplain Management Ordinance
Sec. 14-66. Title
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Sec. 14-68. Agency Designated
Sec. 14-69. Code appendix enforced
Sec. 14-70. Review of flood insurance rate maps (FIRMs)
Sec. 14-71. Designation of regulated flood prone hazard areas
Sec. 14-72—Sec. 14-76. Reserved
BUILDINGS AND BUILDING REGULATIONS

ARTICLE I. IN GENERAL

Sec. 14-1. Mobile home installation and occupancy.

(a) Mobile home installation permit. It shall be unlawful for any person, firm, or corporation to install or cause to be installed a mobile home or addition thereto, located either inside or outside a mobile home park, without first obtaining a permit hereunder from the city building official, and paying a fee as determined by resolution of the city board based upon the cost of administering the permit and inspection requirements.

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

(c) Installation shall for purposes of this section be defined as the process of mounting a mobile home or addition on any foundation. It shall also include the acts of jacking up a mobile home, leveling and connecting utilities and/or the attachment of an expando, garage, cabana, carport, addition, skirting, and any devices related to barrier free design to a mobile home.

(d) Mobile home shall for purposes of this section be defined as a structure, transportable in one or more sections, which is built on a chassis and designed to be used as a dwelling with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained in the structure. "Mobile home" shall also include a structure such as that described above which is used for non-residential purposes. The term "mobile home" does not include a recreational vehicle.

(e) Mobile home park shall for purposes of this section be defined as a parcel or tract of land under the control of a person upon which three or more mobile homes are located on a continual nonrecreational basis and which is offered to the public for that purpose regardless of whether a charge is made therefor, together with any building, structure, enclosure, street, equipment, or facility used or intended to use incident to the occupancy of a mobile home which is not intended for use as a travel trailer park.

(f) Mobile home park operator shall for purposes of this section be defined as any person, firm or corporation that owns a mobile home park.

(g) Application for installation permit. An application for a mobile home installation permit hereunder shall be filed with the city building official on a form prepared by the city building department and shall accurately set forth the following information:

1. The name of the manufacturer of the mobile home.
2. The year in which the mobile home was manufactured.
3. The length and width of the mobile home and any additions thereto.
4. If the mobile home is to be installed in a mobile home park, the park owner's name, address and telephone number.
5. The address of the site upon which the mobile home will be installed.
6. The name, address, mobile home installer license number, and telephone number of the person or persons who will be undertaking the installation of the mobile home.
7. The name, address, and telephone number of the proposed occupant of the mobile home, if available.
(8) A plot plan showing the location upon the site of the mobile home, any additions thereto, utilities and any accessory buildings. The plot plan shall also show, in sufficient detail to enable the city building official to determine whether it complies with the standards set forth in this ordinance, the nature and design of the foundation upon which the mobile home and any addition will rest, and the manner in which the mobile home and any addition will be attached to the foundation.

(9) The size of electrical service to the mobile home and to any accessory structures on the site.

(10) The serial number, United States Department of Housing and Urban Development certification number, or state certification number of the mobile home and any premanufactured additions thereto.

(11) The specifications from the mobile home manufacturer showing the recommended method of installation, if available.

(h) Approval of application. Once an application for a mobile home installation permit has been approved and the permit issued, the plans and specifications contained in said application shall not be modified without the authorization of the city building official, and all work shall be done in accordance with the plans and specifications set forth in the approved application.

(i) Notification of building department. A mobile home park operator or his or her designated representative shall notify the city building department in writing, within three business days from the date installation is commenced, of any mobile home installed within the operator's mobile home park. This information, unless previously obtained lawfully from an independent source, shall not be used as evidence against the mobile home park operator or an employee thereof in any criminal proceeding with respect to a violation of any city ordinance.

(j) Certificate of mobile home occupancy. No mobile home located either inside or outside a mobile home park within the city shall be occupied until a certificate of mobile home occupancy has been issued by the city building official. Before a certificate of mobile home occupancy may be issued, an inspection of the mobile home shall be conducted by the city building official who shall determine that the mobile home has been installed in accordance with this article, chapter 82, zoning, the applicable rules promulgated by the state mobile home commission and, in the case of any fixtures, attachments, or additions which have not been constructed and certified under the "Mobile Home Construction and Safety Standards" as promulgated by the United States department of Housing and Urban Development, being 24 CFR 3280, and as such standards may be amended from time to time, that said fixtures, attachments or additions have been constructed in accordance with the standards in this article and all other applicable city ordinances.

(Code 2005,§14-1)

Secs. 14-2-14-16. Reserved.
The city assumes responsibility for enforcement of the state construction code promulgated pursuant to Public Act No. 230 of 1972 MCL 125.1508a et seq., MCL 125.1508b.


(Ordinance 267, effect. 3-14-2016)

Sec. 14-19. Fees.

The City Council shall establish by Resolution fees, rates and charges for administering and enforcing this Article and the portions of the Construction Code as permitted pursuant to Act 236 of the Public Acts of 1961, as amended. (Ordinance 267, effect. 3-14-2016)

Sec. 14-20. Violations.

Violation of this Article, and of any provision of the Codes adopted herein by reference shall be a municipal civil infraction punishable pursuant to Act 236 of the Public Acts.-of 1961, as amended.
(Ordinance 267, effect. 3-14-2016)

Sec. 14-21.-Sec. 14-32. Reserved.

ARTICLE III. SWIMMING POOLS

Sec. 14-33. Construction permit for permanent/below ground pools.

No person shall construct, operate, maintain or use a swimming pool in the first instance, as herein defined, without first having obtained a permit from the city in accordance with the provisions hereof. The application for such permit shall be accompanied by a complete and detailed set of plans and specifications for the swimming pool, including the following: Plot plan; pool dimensions; location and type of waste disposal system; structural calculations and details; fence and gate details. Before any permit shall be issued, such plans and specifications shall be approved by the building inspector. Before any swimming pool shall be used, a final inspection shall be made and written approval obtained from the building inspector. A building permit fee as set by the city council from time to time shall be paid for the permit. All electrical, plumbing or other permits or fees otherwise imposed by the city shall be deemed required in addition thereto.
(Ord. 274, eff. Sept. 30, 2019)

Sec. 14-34. Above-ground/or portables pools.

No person shall construct, operate, maintain or use an above-ground or portable swimming pool, as herein defined, without first having registered with the city in accordance with the provisions hereof. The application for such registration shall be accompanied by a copy of the specifications of said above-ground or portable pool including the following: Plot plan, pool dimensions, fence and gate details. A registration fee as set by the city council from time to time shall be paid.
(Ord. 274, eff. Sept. 30, 2019)
Sec. 14-35. Definitions.

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

*Private* means not public or semipublic as provided in current swimming pool regulations established by the state department of health.

*Permanent Below Ground Swimming pool* as used herein means a constructed area capable of containing water and of being used for swimming, wading or bathing having a depth of two feet or more at any point.

*Above Ground Swimming or portable pool* as used herein means any contained body of water being used for swimming, wading or bathing having a depth of two feet or more at any point, having no permanent attachment to the ground, and which is readily disassembled and may be moved.

(Ord. 274, eff. Sept. 30, 2019)

Sec. 14-36. Swimming pools.

Swimming pools shall be maintained in a clean and sanitary condition, and in good repair. (Ord. 274, eff. Sept. 30, 2019)

Sec. 14-37. Application.

This article shall apply to all pools, except where state regulations are more restrictive, they shall apply. (Ord. 274, eff. Sept. 30, 2019)

Sec. 14-38. Construction standards.

(a) Swimming pools shall conform to setbacks as required for accessory structures by the city zoning code. No pool edge shall be located closer than eight feet to any side or rear lot line.

(b) All electrical wiring used on, in or about the premises upon which the pool is located shall conform in all respects with article II of this chapter.

(c) The drain line for the pool may not be directly connected to the City sewer or storm sewer systems.

(d) Pool construction shall be such that all scum, splash and deck water shall not return to the pool except through a filter system.

(Ord. 274, eff. Sept. 30, 2019)


(a) Swimming pools shall be provided with a potable water supply. The water supply line to the pool shall be protected against back flow of water by means of a fixed air gap of six inches or more above the highest possible water level, or by an approved vacuum breaker installed in an approved manner. All filler pipe shall be located so as to prevent hazards to bathers.

(b) Provisions shall be made for adequate recirculation and filtration of pool water.

(Ord. 274, eff. Sept. 30, 2019)
Sec. 14-40. Enclosures.

Private swimming pools, hot tubs spas, and artificial ponds containing water more than 24 inches (610 mm) in depth, shall be completely surrounded by a fence or barrier not less than 48 inches (1219 mm) in height above the finished ground level measured on the side of the barrier away from the pool.

(a) Such fence shall be one of the following types:

(1) Chain link fences with mesh not exceeding 2¼ inches.

(2) Vertical board or pole fences with boards or poles spaced not greater than two inches and all horizontal members shall be on the pool side of the fence.

(3) Solid fences having a flush exterior shall be acceptable.

(b) Gates and doors in such barriers shall be self-closing and self-latching. Where the self-latching device is less than 54 inches (1372 mm) above the bottom of the gate, the release mechanism shall be located on the pool side of the gate. Self-closing and self-latching gates shall be maintained such that the gate will positively close and latch when released from an open position of 6 inches (152 mm) from the gatepost. No existing pool enclosure shall be removed replaced or changed in a manner that reduces its effectiveness as a safety barrier. (Exception: Spas or hot tubs with a safety cover that complies with ASTM F 1346 shall be exempt from the provisions of this section.)

(c) Above ground pools or portable pools having a minimum outside vertical height of four feet with the outside of the walls perpendicular to ground level need not be fenced provided there is no climbable stationary object within three feet of the wall except a stairway to the pool. The stairway shall have sides of at least four feet in height covered by the same fencing material as provided in subsection (a) of this section. The area between risers shall be similarly covered to prevent entry onto the stairway except through a gate at ground level conforming to the gate standards of subsection (b) of this section. Other methods of stairway and fence construction may be allowed if approved by the city council and if such methods reasonably prevent unauthorized entry.

(d) All gates shall be kept locked when the pool is not being used by the owners or persons using the pool with the owners' consent.

(Ord. 274, eff. Sept. 30, 2019)

Sec. 14-41. Penalties.
Violations of this chapter shall be punishable as prescribed in section 1-10 of this Code.
(Ord. 274, eff. Sept. 30, 2019)

Sec. 14-42. Civil actions.
The standards herein contained for the construction, operation, maintenance or use of swimming pools shall also be enforceable by suit for injunction, damages or other appropriate legal action. (Ord. 274, eff. Sept. 30, 2019)

Sec. 14-43—14-50 Reserved.
ARTICLE IV, DANGEROUS BUILDINGS


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

A. Whenever any door, aisle, passageway, stairway or other means of ingress or egress does not conform to the Building Codes or Fire Codes effective within the City, it shall be considered that such building does not meet the requirements of this Ordinance.

B. Whenever any portion has been damaged by fire, wind, flood, or by any other cause in such manner that the structural strength or stability is appreciably less than it was before such catastrophe and is less than the minimum requirements of the Building Code then in effect for a new building or similar structure, purpose or location.

C. Whenever any portion of member or appurtenance is likely to fall or to become detached or dislodged, or to collapse and thereby injure persons or damage property.

D. Whenever any portion has settled to such an extent that walls or other structural portions have materially less resistance to winds that is required in, the case of new construction by the Building Code then in effect.

E. Whenever the building or structure or any part, because of dilapidation, deterioration, decay, faulty construction, or because of the removal or movement of some portion of the ground necessary for the purpose of supporting such building or portion thereof, or for other reason, is likely to fall or give way.

F. Whenever for any reason whatsoever the building or structure or any portion is manifestly unsafe for the purpose for which it is used.

G. When the building or structure has been so damaged by fire, wind or flood, or has become so dilapidated or deteriorated as to become an attractive nuisance to children who might play therein to their danger, or as to afford a harbor for vagrants, criminals or immoral persons, or as to enable persons to resort thereto for the purpose of committing a nuisance or unlawful immoral acts.

H. Whenever a building or structure, because of dilapidation, decay, damage, or faulty construction or arrangement or otherwise, is unsanitary or unfit for human habitation or is in a condition that is likely to cause sickness or disease when so determined by the State or County Health Officer or is likely to cause injury to the health, safety or general welfare of those living or working within.

I. Whenever any building becomes vacant, dilapidated and open at door or window, leaving the interior of the building exposed to the elements or accessible to entrance by trespassers.

J. Whenever any unoccupied building is boarded up for a period of more than six months without an extension granted by the Hearing Officer appointed pursuant to Section 14-53(D) of this Article;
any extension granted shall be granted pursuant to a hearing as set forth in Section 14-53(D): PROVIDED, HOWEVER, that no action shall be taken under this Ordinance regarding any such building, unless such building is also a "dangerous building" defined in one or more other subsections of this Article.

K. Whenever any sign, fence, shed, lean-to, cellar or other structure which has become so rotted, broken, infirm or dilapidated so as to endanger persons or property
(Ordinance No. 242, effect. 12-16-2005)

Sec. 14-52. Prohibition.

It shall be unlawful for any owner or agent thereof to keep or maintain any building or part thereof which is a dangerous building as defined in this Article.
(Ordinance No. 242, effect. 12-16-2005)


A. When the whole or any part of any building or structure is found to be in a dangerous condition, the City Building Inspector shall issue a notice of the dangerous condition.

B. Such notice shall be directed to the owner of or party in interest in the building in whose name the property appears on the last local tax assessment records of the City.

C. The notice shall specify the time and place of a hearing on the condition of the building or structure at which time and place the person to whom the notice is directed shall have the opportunity to show cause why the building or structure should not be ordered to be demolished or otherwise made safe.

D. All such notices required by this Article shall be in writing and shall be served upon the person to whom they are directed personally, or in lieu of personal service, may be mailed by Certified Mail, Return Receipt Requested, addressed to such owner or party in interest at the address shown on the tax records, at least ten (10) days before the date of the hearing described in the notice. If any person to whom a notice is directed is not personally served, in addition to mailing the notice, a copy thereof shall be posted upon a conspicuous part of the building or structure at least ten (10) days prior to the hearing date.
(Ordinance No. 242, effect. 12-16-2005)

Sec. 14-54. Hearing Officer: Duties.

A. A Hearing Officer shall be appointed by the City Council to serve at the pleasure of the City Council.

B. The Building Inspector shall file a copy of the notice of the dangerous condition of any building or structure with the City Clerk, who shall provide a copy to the Hearing Officer.

C. At any hearing held, the Hearing Officers shall receive and record testimony of the Building Inspector, the owner of the property, and any other interested party. Upon the taking of such testimony, the Hearing Officer shall render his decision within seven (7) business days either closing the proceedings or ordering the building to be demolished or otherwise made safe.

D. If it is determined by the Hearing Officer that the building or structure should be demolished or otherwise made safe, he shall so order, fixing a time in the Order of not less than 30 days nor
more than 90 days, for the owner or party in interest to comply therewith.

E. If the owner or party in interest fails to appear or neglects or refuses to comply with the Order, the Hearing Officer shall file a report of his findings and a copy of this Order with the City Council and request that the necessary action be taken to demolish or otherwise make safe the building or structure. A copy of such findings and order of the Hearing Officer shall be served on the owner or party in interest in the manner prescribed in Section 14-53(D).
(Ordinance 242, effect. 12-16-2005)

Sec. 14-55. Hearing

Upon receiving the findings and Order of the Hearing Officer, the City Council shall fix a date for hearing, reviewing the findings and Order of the Hearing Officer and shall give notice to the owner or party in interest in the manner prescribed in Section 14-53(D) of the time and place of the hearing. At the hearing, the owner or party in interest shall be given the opportunity to show cause why the building should not be demolished or otherwise made safe and the City Council shall either approve, disapprove or modify the Order for demolition or making safe of the building or structure.
(Ordinance No. 242, effect. 12-16-2005)

Sec. 14-56. Work Done By City.

In the event of the failure or refusal of the owner or party in interest to comply with the decision of the City Council, the City Council may, in its discretion, contract with an independent contractor or arrange with City personnel for the demolition or making safe of the dangerous building. The cost of the demolition or making the building safe shall be a lien against the real property and shall be reported to the Assessing Officer of the City who shall assess the cost against the property on which the building or structure is located. The owner or party in interest in whose name the property appears upon the last local tax assessment records of the City shall be notified of the amount of such cost by first class mail at the address shown on the records. If he/she fails to pay the same within thirty (30) days after mailing by the Assessor of the notice of the amount thereof, the Assessor shall add the same to the next tax roll of the City and the same shall be collected in the same manner as provided by law for the collection of taxes. The City may also collect the amount owed in any other manner permitted by law.
(Ordinance No. 242, effect. 12-16-2005)

Sec. 14-57. Appeal.

An owner or party in interest aggrieved by any final decision of the City Council may appeal the decision or order to the Circuit Court for the County of Kalamazoo by filing a Petition for an Order of Superintending Control within twenty (20) days after the date of such decision.
(Ordinance No. 242, effect. 12-16-2005)


If the Building Inspector believes an immediate serious danger exists to the public where a vacant building or structure is left open to casual entry, a part of the building or structure falling and injuring someone; he may give a notice by personal service to the owner of record as shown on the current tax roll, or by leaving such notice at his place of residence as shown on the current tax roll, and serving any other interested persons as shown on the tax roll of an emergency hearing on the matter to be held no sooner than twenty-four (24) hours after giving such service. The purpose of the hearing shall be to consider the request of the Building inspector that the City and/or its contractees be authorized to immediately go upon the property
for the express purpose of boarding up and/or making the premises secure from casual entry or preventing collapse. After taking testimony from the Building Inspector, owner (if he appears) and other interested persons who may appear, the Hearing-Officer shall consider the urgency of the matter, whether a real danger exists to persons, including minors, who might enter or pass by the building or structure. If the Hearing Officer believes that an immediate danger exists, he may authorize such work as may be necessary to be done by the City or its contracted immediately to secure the premises. The cost of such work shall be paid by the property owner within thirty (30) days of billing by the City. If such costs are not paid, the Assessor shall add the same to the next tax roll of the City, and the sum shall be collected in the same manner as provided by law for the collection of taxes. The City may also collect the amount owed in any other manner permitted by law.

(Ordinance No. 242, effect 12-16-2005)

SECTION 1
DANGEROUS BUILDINGS PROVISIONS
OF THE BUILDING AND BUILDING REGULATIONS
CHAPTER OF THE CITY OF GALESBURG
CODE OF ORDINANCES

Sec. 14-59. Penalties for Nonconformance.
Any person, firm, association, partnership, or corporation that violates any of the provisions of this Chapter or fails or refuses* to abide by an Order entered under this Ordinance shall be deemed to be responsible for a municipal civil infraction as defined by Michigan Statute which shall be punishable by a civil fine determined in accordance with the following schedule:

<table>
<thead>
<tr>
<th>Minimum Fine</th>
<th>Maximum Fine</th>
</tr>
</thead>
<tbody>
<tr>
<td>1st Offense</td>
<td>$125.00</td>
</tr>
<tr>
<td>2nd Offense*</td>
<td>$275.00</td>
</tr>
<tr>
<td>3rd Offense*</td>
<td>$350.00</td>
</tr>
<tr>
<td>4th or More Offense*</td>
<td>$500.00</td>
</tr>
</tbody>
</table>

*within 3-year period determined on the basis of the date of commission of the offense(s).

Additionally, the violator shall pay costs which may include all expenses, direct and indirect, which the City of Galesburg has incurred in connection with the municipal civil infraction. In no case, however, shall costs of less than $9.00 or more than $500 be ordered. In addition the City shall have the right to proceed in any court of competent jurisdiction for the purpose of obtaining an injunction, restraining order, compliance order or other appropriate remedy to compel compliance with this ordinance. Each day that a violation of this ordinance exists shall constitute a separate violation of this ordinance.”

(Ordinance No. 266, effect. 4-30-2016)

ARTICLE V. FLOODPLAIN MANAGEMENT

Sec. 14-66. Title.
This article shall be known and cited as the Galesburg Floodplain Management Ordinance.
(Ord. 272, effect. 7/25/2019)

Sec. 14-67. Definitions.

Unless specifically defined below, words or phrases used in this article shall be interpreted so as to give them the meaning they have in common usage and to give this article its most reasonable application.
Flood or flooding means:

(a) A general and temporary condition of partial or complete inundation of normally dry land areas from:

(1) The overflow of inland or tidal water;
(2) The unusual and rapid accumulation or runoff of surface waters from any source;
(3) Mudflows; and

(b) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding, as defined in paragraph (a) of this definition.

Flood insurance rate map ("FIRM") means the official map on which FEMA has delineated both the area of special flood hazards and the risk premium zones applicable to the community.

Flood insurance study means the official report provided by FEMA that includes flood profiles, FIRMs, and the water surface elevation of the base flood.

Floodplain means any land area susceptible to being inundated by water from any source (see definition of flooding).

Floodplain management means the operation of an overall program of corrective and preventive measures for reducing flood damage, including, but not limited to, emergency preparedness plans, flood control works, and floodplain management regulations.

Floodplain management regulations means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance), and other applications of police power that provide standards for the purpose of flood damage prevention and reduction.

Structure means a walled and roofed building that is principally above ground, gas or liquid storage facility, as well as a mobile home or manufactured unit.

(Ord. 272, effect.7/25/2019)

Sec. 14-68. -Agency designated.

(1) Pursuant to the provisions of the State Construction Code, in accordance with Section 8b(6) of the State Construction Code Act, Act 230 of the Public Acts of 1972, as amended (the "Construction Code Act"), the building official of the city is hereby designated as the enforcing agency to discharge the responsibility for the administration and enforcement of the Construction Code Act throughout the corporate limits of the city.

(2) The building official is directed to administer, apply, and enforce the floodplain management regulations as contained in the State Construction Code, including Appendix G, and to be consistent with those regulations by:
a. Obtaining, reviewing and reasonably utilizing flood elevation data available from federal, state or other sources pending receipt of data from the FEMA to identify the flood hazard area and area's potential flooding.

b. Ensuring that all permits necessary for development in floodplain areas have been issued, including a floodplain permit, approval, or letter of no authority from the Michigan Department of Environmental Quality under the floodplain regulatory provisions of Part 31, "Water Resource Protection", of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended.

c. Reviewing all permit applications to determine whether the proposed building sites will be reasonably safe from flooding. Where it is determined that a proposed building will be located in a flood hazard area, the building official shall implement the following applicable codes according to their terms:


d. Reviewing all proposed subdivisions to determine whether such proposals are reasonably safe from flooding and to ensure compliance with all applicable floodplain management regulations.

e. Assisting in the delineation of flood hazard areas; providing information concerning uses and occupancy of the floodplain or flood-related erosion areas, maintaining flood proofing and lowest floor construction records, cooperating with other officials, agencies and persons for floodplain management.

f. Advising FEMA of any changes in community boundaries, including appropriate maps.

g. Maintaining records of new structures and substantially improved structures concerning any certificates of floodproofing, lowest floor elevation, basements, floodproofing and elevations to which structures have been floodproofed.

(Ord. 272, effect.7/25/2019)


Pursuant to the provisions of the State Construct Code, in accordance with Section 8b(6) of the Construction Code Act, Appendix G of the Michigan Building Code shall be enforced by the enforcing agency within the city.

(Ord. 272, effect.7/25/2019)

Sec. 14-70. Review of flood insurance rate maps (FIRMs).

The city assures the federal insurance administrator ("administration that it intends to review, on an ongoing basis, all amended and revised FIRMs and related supporting data and revisions thereof and revisions of 44 CFR, Part 60, Criteria for Land Management and Use, and to make such revisions in its floodplain management regulations as may be necessary to continue to participate in the program.

(Ord. 272, effect.7/25/2019)

Sec. 14-71. - Designation of regulated flood prone hazard areas.
The FEMA flood insurance study entitled "Kalamazoo County, Michigan (All Jurisdictions)," dated February 17, 2010, and the FIRMs panel numbers of 26077CINDOA, 26077C0075D, 26077C0175D, 2607700179D, 26077C0180D and 26077C0185D, dated February 17, 2010, 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 content of the "flood hazards" section of Table R301.2(1) of the Michigan Residential Code.

(Ord. 272, effect.7/25/2019)

Secs. 14-72-14-76. - Reserved.
Subject to changes and/or amendments
CHAPTERS 15-17
RESERVED
Chapter 18
CEMETERIES

Sec.18-1. Citation.
Sec.18-2. Private cemeteries restricted.
Sec.18-3. Interments restricted.
Sec.18-4. Cemetery board; rules.
Sec.18-5. Sexton duties.
Sec.18-6. Lot owner's rights.
Sec.18-7. Lot purchases.
Sec.18-8. Grave sites.
Sec.18-9. Monuments and vaults.
Sec.18-10. Vandalism.
Sec.18-11. Hours.
Sec.18-12. Permits; lot assignments.
Sec.18-13. Receiving vault.
Sec.18-14. Monuments; placement; specifications.
Sec.18-15. Restrictions on plantings, curbs, etc.
Sec.18-16. Markers for infants.
Sec.18-17. Plantings; maintenance.
Sec.18-18. Vehicles.
Sec.18-19. Traffic Code applicable.
Sec.18-20. Animals.
CHAPTER 18. CEMETERIES

Sec. 18-1. Citation.

This chapter shall be called the "Galesburg Cemetery Ordinance." (Code 2005, §18-1)

Sec. 18-2. Private cemeteries restricted.

All cemeteries now owned or which may hereafter be acquired by the city, wherever located, are hereby declared to be public burying grounds, and no person or persons, corporation, society or congregation, shall establish or locate any other cemetery within the limits of said city unless the necessity or desirability for the establishment of such cemetery has been affirmatively determined by the city council and it has approved the location of such proposed cemetery. (Code 2005, §18-2)

Sec. 18-3. Interments restricted.

No interment of any deceased person shall be made in any other place than within cemeteries devoted to that purpose; nor shall the interment of anything other than human bodies be permitted therein. (Code 2005, §18-3)

Sec. 18-4. Cemetery board; rules.

The city council shall constitute the cemetery board and may adopt such rules and regulations governing said cemeteries as may be from time to time deemed necessary, and such rules and regulations when adopted and public notice thereof given, shall have the same force and effect as if the same were specifically set forth in this chapter. (Code 2005, §18-4)

Sec. 18-5. Sexton duties.

The public works administrator, subject to the approval of the city council, shall have charge of the city cemetery or cemeteries and he shall enforce the rules and regulations by resolution that may from time to time be adopted by the city council; he shall maintain order in the cemetery or cemeteries and make complaints for every violation of this chapter and for violation in city-owned cemeteries of any other provision of this Code; he shall supervise all workmen, visitors and drivers and shall qualify and act as a special police officer in the city-owned cemeteries. (Code 2005, §18-5)

Sec. 18-6. Lot owner's rights.

The purchaser of any single grave or lot in the cemetery shall acquire thereby only the privilege or license to make interments in the grave or lot purchased. The owner of any lot or lots shall not allow interment to be made therein for remuneration to himself, nor shall a lot or lots be used for any other purpose than a place for burial of the dead. All interments in lots shall be restricted to members of the owner's family and relatives unless special permission to the contrary shall have been obtained in writing from the city council. (Code 2005, §18-1)

Sec. 18-7. Lot purchases.

Any person wishing to purchase a lot or fraction of a lot in any cemetery belonging to the city may do so by paying to the city clerk such sum as the city council may have from time to time established, and upon such payment shall receive a certificate of purchase therefor, signed by
the clerk of the city, which shall grant exclusive license and privilege of burial only, subject to this Code and rules and regulations as may be adopted by the city council for the care, management and preservation of such cemetery and grounds, the monuments, memorials and vaults therein. Such money shall be credited to the cemetery fund. No lot or fraction thereof shall be considered sold or reserved until a receipt in full for the purchase price thereof has been obtained from the city clerk and no interment will be allowed until payment has been made for the grave, opening of the grave and marker.

(Code 2005, §18-7)

Sec. 18-8. Grave sites.
The number of graves to be allowed in lots shall be as determined by the city council, not more than one monument, or vault above ground shall be allowed on any one lot nor more than one marker or index stone on any one grave; no lot or part thereof shall be enclosed by a fence, railing, coping, hedge, embankment or ditch. Grave mounds shall not be allowed and no lot shall be raised above the grade established by the city council.

(Code 2005, §18-8)

Sec. 18-9. Monuments and vaults.
All foundations for monumental structures must be built of concrete and of depth and size provided for in the rules and regulations. No vault above ground for the reception of the dead shall be built within the limits of any cemetery belonging to the city until a plan of such vault or vaults showing location, dimensions, the construction material to be used, and the manner of construction thereof shall have first been submitted to the city council and approved by it, and shall comply with section 18-14.

(Code 2005, §18-9)

Sec. 18-10. Vandalism.
No person shall cut, remove, injure or carry away any flowers, trees, shrubs, plants or vines being in or growing upon any cemetery lots or grounds and for cemetery purposes and owned by the city, nor shall any person or persons deface, injure or write upon any markers, monuments, headstones, fence or structure, within any of the city-owned cemeteries, nor shall any person or persons injure or destroy, take or carry away any vases, flower pots, or other ornaments that may have been placed upon graves or grounds plotted for cemetery purposes, unless by permission of the cemetery sexton where such property is located. If any trees or shrubbery situated in any lot, by means of their roots, branches or otherwise, or because they have died, become detrimental to the adjacent lots or avenues, or have grown to a height of over four feet, or unsightly or inconvenient to passers-by, it shall be the right of the city council to authorize the cemetery sexton to enter said lot or lots and to remove such trees and shrubbery or any part thereof. Provided, however, that the owner or owners of said lot or lots shall first have been notified in writing to remove the same within one week after receipt of notice and shall have refused or neglected to do so.

(Code 2005, §18-10)

Sec. 18-11. Hours.
No person or persons not directly connected with the operation of the cemetery shall enter it except through the main entrance gates and only between the hours of 7:00 a.m. and 9:00 p.m., except by permission of the cemetery sexton.

(Code 2005, §18-11)

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16State law reference-Willful destruction of cemeteries, MCL 750.387.
Sec. 18-12. Permits; lot assignments.

(a) No interment will be permitted or dead body be received without a burial permit and all
interments and removals of deceased persons from the city clerk shall be made subject to such rules
and regulations as may from time to time be adopted by the city council. No person or persons shall
disinter anybody without permission of the city council.

(b) All transfers or assignments of rights of owners in and to any unused portion of any lot shall
be recorded with the city clerk.
(Code 2005, §18-12)

Sec. 18-13. Receiving vault.

If and when a receiving vault is available it shall be used when, in the opinion of the cemetery
sexton, weather conditions make it necessary or advisable. In case earth burial is demanded
during this period an extra charge will be made in accordance with that set forth in the rules and
regulations. Persons owning private vaults are expressly forbidden to charge for the use of their
vault for other than their own family or relatives. Bodies of persons having died of infectious or
contagious diseases shall not be permitted to be deposited in the public vaults.
(Code 2005, §18-13)

Sec. 18-14. Monuments; placement; specifications.

All family monuments, memorials, vaults above ground, headstones, footstones and markers
shall be placed under the direction of the cemetery sexton. No family monument shall be erected
on a fractional lot containing less than 160 square feet and its base shall not cover over six
percent of the burial plot area. All family monuments shall have foundations at least two inches
larger than base of monument, at least 4½ feet in depth and shall be of concrete with top of
foundation at grade. They shall be of bronze, granite or other material approved by the city clerk
after consultation with the public works administrator. In cases where family monuments are not
erected, single grave monuments, of suitable design and material, may be erected with the
approval of the city council.
(Code 2005, §18-14)

Sec. 18-15. Restrictions on plantings, curbs, etc.

No curbs, fences or cornerstones above ground will be allowed on any lot or fractional lot and
no trees, shrubbery or flowers may be planted where in the opinion of the cemetery sexton, they
will interfere with pedestrians, automobiles or the care of adjoining lots.
(Code 2005, §18-15)

Sec. 18-16. Markers for infants.

All baby sized markers shall be one foot four inches by eight inches by six inches.
(Code 2005, §18-16)

Sec. 18-17. Plantings; maintenance.

(a) All flowers, trees, shrubbery or other growth on a cemetery lot shall be removed as soon as it
dies or becomes unsightly, and every lot shall be kept clear of debris, leaves, branches, dead flowers,
trees, branches, roots and papers.
It shall be the duty of lot owners to maintain their lots.
(Code 2005, §18-17)

Sec. 18-18. Vehicles.

All vehicles and equipment of every nature except those used to perform burial preparation or
services shall be driven upon the traveled portions of the right-of-way only.
(Code 1986, § 3.69)
Sec. 18-19. Traffic Code applicable.
All provisions of chapter 70, traffic and vehicles, shall apply in the cemetery grounds if appropriate, and posted speed limits of 15 miles per hour shall be observed.
(Code 2005,§18-19)

Sec. 18-20. Animals.
No dogs or other animals, with the exception of service animals, shall be permitted in the cemetery.
(Code 2005,§18-20)

17 State law reference—Right to take service animals in certain public places, MCL 750.502c.
CHAPTERS 19-21

RESERVED
Chapter 22
EMERGENCY SERVICES

Article I. In General

Secs. 22-1-22-15. Reserved.

Article II. Emergency Response Cost Recovery

Division 1. Generally

Secs. 22-16-22-30. Reserved

Division 2. Incidents Involving Alcoholic Liquor

Sec. 22-31. Purpose.
Sec. 22-32. Definitions.
Sec. 22-33. Liability for expense of an emergency response.
Sec. 22-34. Presumptions.
Sec. 22-35. Charge against person liable.
Sec. 22-36. Cost recovery schedule.
Sec. 22-37. Chief of police to submit bill.
Sec. 22-38. Failure to pay; procedure to recover costs.

Division 3. Incidents Involving Hazardous Waste

Sec.-22-54.-Purpose.
Sec.-22-55.-Definitions.
Sec.-22-56.-Charges imposed upon a responsible party or parties.
Sec.-22-57.-Billing procedures.
Sec.-22-58.-Nonexclusive charges.
Sec.-22-59.-Other remedies.
EMERGENCY SERVICES

ARTICLE I. IN GENERAL

Secs. 22-1-22-15. Reserved.

ARTICLE II. EMERGENCY RESPONSE COST RECOVERY

DIVISION 1. GENERALLY

Secs. 22-16-22-30. Reserved.

DIVISION 2. INCIDENTS INVOLVING ALCOHOLIC LIQUOR*

Sec. 22-31. Purpose.

The city finds that a significant number of traffic arrests and traffic accidents in the city involve drivers who were operating a motor vehicle while under the influence of alcoholic beverages and/or controlled substances. In addition, the city finds that in traffic accidents involving drivers who were operating a motor vehicle while under the influence of alcoholic beverages and/or controlled substances, a greater operational and financial burden is placed upon the city police, public service, firefighting and rescue services by persons who are operating a motor vehicle while under the influence of alcoholic beverages and/or a controlled substance.

(Code 2005, §22-31)

Sec. 22-32. Definitions.

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

Emergency response means:

(A) The providing, sending and/or utilizing public services, police, firefighting, and rescue services by the city to an incident resulting in an accident involving a motor vehicle where one or more of the drivers were operating the motor vehicle while under the influence of an alcoholic beverage or controlled substance or the combined influence of an alcoholic beverage and controlled substance; or

(B) An incident resulting in traffic stop and arrest by a police officer when the driver was operating the motor vehicle while under the influence of an alcoholic beverage or controlled substance.

(Code 2005, §22-32)

Sec. 22-33. Liability for expense of an emergency response.

Any person who is under the influence of an alcoholic beverage or controlled substance, whose negligent operation of a motor vehicle while under the influence proximately causes any incident resulting in an appropriate emergency response, is liable for the expense of an emergency response by the city to the incident.

18 State law reference—Fees for certain emergency services, MCL 41.806a; expenses court may order reimbursed to local governments, MCL 769.1f
Sec. 22-34. Presumptions.

For purpose of this division, a person is under the influence of an alcoholic beverage or controlled substance, or the combined influence of an alcoholic beverage or a controlled substance, when his or her physical or mental abilities are impaired to a degree that he or she no longer has the ability to operate a motor vehicle, with the caution characteristic of a sober person of ordinary prudence. Further, it shall be presumed that a person was operating a motor vehicle under the influence of an alcoholic beverage if a chemical analysis of his or her blood, urine, or breath indicates that the amount of alcohol in his or her blood was in excess of 7/100 percent.

Sec. 22-35. Charge against person liable.

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

Sec. 22-36. Cost recovery schedule.

The city council shall, by resolutions, adopt a schedule of the costs included within the expense of an emergency response. This schedule shall be available to the public from either the city clerk or police department.

Sec. 22-37. Chief of police to submit bill.

The chief of police, or his or her designate, shall within a reasonable time after the incident or within a reasonable time after receiving itemized costs incurred for an emergency response, whichever is later, submit a bill for those costs by first class mail or personal service to the person liable for these expenses as enumerated under this division. The bill shall require full payment in 30 days from date of service.

Sec. 22-38. Failure to pay; procedure to recover costs.

Any failure by the person described in this division as liable for the expense of an emergency response, to pay the bill within 30 days of service of same shall render such matter in default. The city may commence civil suit or submit the invoice to a licensed collection agency to recover the expense and any costs which are allowed by law.


DIVISION 3. INCIDENTS INVOLVING HAZARDOUS WASTE

Sec. 22-54. Purpose.

The purpose of this division is to provide for defraying a portion of the expenses of the city resulting from the city responding with emergency equipment and personnel to a hazardous
materials accident or incident involving the release or threatened release of a hazardous material into the environment which requires emergency attention to protect the health, safety and general welfare of the public.
(Code 2005,§22-54)

Sec. 22-55. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:
Hazardous materials means explosives, pyrotechnics, flammable gas, flammable compressed gas, nonflammable compressed gas, flammable liquid, combustible liquid, oxidizing material, poisonous gas, poisonous liquid, irritant material, etiologic materials, radioactive material, corrosive material, liquefied petroleum gas, and other materials customarily considered dangerous to living beings or contaminating to the environment.
Release includes any spilling, leaching, pumping, pouring, emitting, emptying, discharging, injection, leaching, dumping or disposing of hazardous materials into the environment.
Responsible party means any individual, firm, corporation, association, partnership, commercial entity, consortium, joint venture, government entity or any other legal entity that causes a release of a hazardous material, or whose action threatens such release; or who is an owner, tenant, occupant or party in control of property onto which or from which hazardous materials are released or threatened to be released.
(Code 2005,§22-55)

Sec. 22-56. Charges imposed upon a responsible party or parties.
Where the city fire and/or police department responds to a release of hazardous materials or a threatened release of such materials, the responsible party or parties shall be liable to the city for the following costs incident to such city response:

a. All personnel costs of all personnel attending on behalf of and with the authority of the city including their current hourly rate, fringe benefits, and salary apportioned to the length of time in attendance, calculated commencing one hour after receipt of the signal to respond and continuing for each personnel until that personnel has concluded his or her incident related responsibilities.

b. That equipment costs of all equipment attending as established by an itemized resolution of the city board setting forth the costs attributable to each piece of city equipment which might be involved in such a response. This resolution may be amended from time to time to reflect changes in equipment, inflation factors, and accounting records of past occurrences.

c. Other expenses incurred by the city including but not limited to rental or purchase of additional machinery or equipment, retention of consultants, medical and hospitalization costs, replacement costs related to disposable personnel protective equipment required to be disposed of, extinguishing chemicals, supplies and water purchased from water systems, and meals and refreshments for emergency personnel while responding to the hazardous materials incident.

d. Additional charges imposed by any other local, state or federal government entities, related to the incident.

e. Administrative costs incurred in accounting for all expenditures and for billing and collection of such expenditures which shall not exceed 25 percent of the foregoing costs.
(Code 2005,§22-56)

Sec. 22-57. Billing procedures.
Following the conclusion of the hazardous materials incident, the fire chief shall submit a
detailed listing of all known expenses to the city treasurer, who shall prepare an invoice to the
responsible party for payment. The treasurer's invoice shall demand full payment within 45 days
of the receipt of the bill. Any additional expenses that become known to the city fire chief
following the transmittal of the bill to the responsible party shall be billed in the same manner
on the subsequent bill to the responsible party. For any amounts due that remain unpaid after 45
days, the city shall impose a late charge of one percent per month or fraction thereof. (Code
2005,§22-57)

Sec. 22-58. Nonexclusive charges.
The foregoing rates and charges shall not be exclusive of other charges that may be made by the
city for the costs and expense of maintaining a fire and/or police department, but shall only be
supplemental thereto. Charges may additionally be collected by the city through general taxation
after a vote of the electors approving the same, or by special assessments established under state
statutes pertinent thereto.
(Code 2005,§22-58)

Sec. 22-59. Other remedies.
The city may pursue any other remedy, or may institute any appropriate action or proceeding, in
a court of competent jurisdiction to collect charges imposed under this division. The recovery of
charges imposed under this division does not limit the further liability of responsible parties
under local ordinance or state or federal law, rule or regulation.
(Code 2005,§22-59)
Chapters 23-25

RESERVED
Chapter 26

ENVIRONMENT

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Sec. 26-16. Nuisances defined.
Sec. 26-17. Prohibited.
Sec. 26-18. Nuisances per se.

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ARTICLE I. IN GENERAL

Secs. 26-1-26-15. Reserved.

ARTICLE II. PUBLIC NUISANCES*

Sec. 26-16. Nuisances defined.
(a) Whatever annoys, injures, or endangers the safety, health, comfort, or repose of the public; offends public decency; interferes with, obstructs or renders dangerous any street, highway or navigable stream; or in any way renders the public insecure in life or property, is hereby declared to be a public nuisance.
(b) Public nuisances shall include, but not be limited to, whatever is forbidden by any provision of this article.
(Code 2005,§26-16)

Sec. 26-17. Prohibited.
No person shall commit, create, or maintain any nuisance, or permit any nuisance to be committed, created or maintained on any property owned, occupied or possessed by him. Each day a nuisance shall remain unabated shall be construed as a separate violation.
(Code 2005,§26-17)

Sec. 26-18. Nuisances per se.
The following acts, services, apparatus and structures are hereby declared to be public nuisances:
(1) The maintenance of any pond, pool of water, or vessel holding stagnant water.
(2) The pollution of any stream, lake or body of water by depositing or permitting to be deposited any refuse, foul, or nauseous liquid or water, creamery or industrial waste, or forcing or discharging into any public or private sewer or drain any steam, vapor or gas.
(3) Any vehicle used for any illegal purpose.
(4) All obscene pictures, books, pamphlets, magazines and newspapers.
(5) Betting, bookmaking and all apparatus used in such occupations.
(6) All gambling devices.
(7) All houses kept for the purpose of prostitution or promiscuous sexual intercourse, gambling houses, houses of ill fame and bawdy houses.
(8) All explosives, inflammable liquids and other dangerous substances stored in any manner or in any amount contrary to the provisions of this Code, or statute of the state.
(9) Any use of the public streets and/or sidewalks which causes large crowds to gather, obstructing the free use of the streets and/or sidewalks.

19 State law references—Public nuisances, MCL 600.3801 et seq.; nuisance abatement, MCL 600.2940
(10) All buildings, walls and other structures which have been damaged by fire, decay, or otherwise and all excavations remaining unfilled or uncovered for a period of 90 days or longer, and which are so situated so as to endanger the safety of the public.

(11) All dangerous, unguarded excavations or machinery in any public place, or so situated, left or operated on private property as to attract the public.

(12) The owning, driving or moving upon the public streets and alleys of trucks or other motor vehicles which are constructed or loaded so as to permit any part of their load or contents to blow, fall, or be deposited upon any street, alley, sidewalk or other public or private place, or which deposit from their wheels, tires, or other parts onto the street, alley, sidewalk or other public or private place, dirt, grease, sticky substances or foreign matter of any kind. Provided, however, that under circumstances determined by the city superintendent to be in the public interest, he may grant persons temporary exemption from the provisions of this subsection conditioned upon cleaning and correcting the violating condition at least once daily and execution of an agreement by such person to reimburse the city for any extraordinary maintenance expenses incurred by the city in connection with such violation.

(13) The placing or causing to be placed in or on any motor vehicle parked upon any street, alley or other public place within the corporate limits of the city any paper, posters, signs, cards, or other advertising matter, but this prohibition shall not extend to official traffic violation notices. 

(Code 2005, §26-18)


20 ARTICLE III. LITTER*

DIVISION 1. GENERALLY

Secs. 26-51-26-65. Reserved.

DIVISION 2.
PUBLIC AND PRIVATE PROPERTY

Sec. 26-66. Definitions.
The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Public or private property or water includes, but is not limited to, the right-of-way of a road or highway; a body of water or watercourse, or the shore or beach thereof, including the ice above the water; a park, playground, building, refuge, conservation or recreation area; and residential or farm properties or timber lands.

Vehicle means every motor vehicle registered under Public Act No. 300 of 1949 (MCL 257.1 et seq.)

Vessel means a vessel registered under art. III, ch. 4, subch. 5 of the Natural Resources and Environmental Protection Act (MCL 324.80101 et seq.).

(Code 2005, §26-66)

20 State law reference—Littering, MCL 324.8901 et seq.
Sec. 26-67. Littering unlawful.
It is unlawful for a person knowingly, without the consent of the public authority having supervision of public property, or the owner of private property, to dump, deposit, place, throw or leave, or cause or permit the dumping, depositing, placing, throwing, or leaving of litter on public or private property or water other than property designated and set aside for such purposes.
(Code 2005, §26-67)

Sec. 26-68. Presumption from ownership.
Except as provided in section 26-70 involving litter from a leased vehicle or leased vessel, in a proceeding for a violation of this Article involving litter from a motor vehicle or vessel, proof that the particular vehicle or vessel described in the citation, complaint or warrant was used in the violation, together with proof that the defendant named in the citation, complaint or warrant was a registered owner of the vehicle or vessel at the time of the violation, constitutes in evidence a presumption that the registered owner of the vehicle or vessel was the driver of the vehicle or vessel at the time of the violation.
(Code 2005, §26-68)

Sec. 26-69. Driver's responsibility.
The driver of a vehicle or vessel is presumed to be responsible for litter which is thrown, dropped, dumped, deposited, placed or left from the vehicle or vessel on public or private property; or waters as defined herein.
(Code 2005, §26-69)

Sec. 26-70. Leased vehicles and vessels.
In a proceeding for a violation of this article involving litter from a leased motor vehicle or leased vessel, proof that the particular vehicle or vessel described in the citation, complaint, or warrant was used in the violation, together with proof that the defendant named in the citation, complaint or warrant was the lessee of the vehicle or vessel at the time of the violation, constitutes in evidence a presumption that the lessee of the vehicle or vessel was the driver of the vehicle or vessel at the time of the violation.
(Code 2005, §26-70)

Secs. 26-71-26-85. Reserved.

DIVISION 3
PROPERTY OWNER'S AND OCCUPANT'S RESPONSIBILITY

Sec. 26-86. Definitions.
The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning: Dwelling, for the purposes of this division, shall be defined as in chapter 82, zoning.
(Code 2005, §26-86)

Sec. 26-87. Lot to be kept clean.
Every dwelling and every building upon a lot upon which a dwelling is located shall be kept free from any accumulation of dirt, filth, rubbish, debris, garbage, rags, metal, lumber, paper or other combustible articles or materials, noxious, decayed or offensive matter, or any other offensive or unsanitary conditions.
(Code 2005, §26-87)

Sec. 26-88. Junk storage.
Every lot or premises upon which a dwelling is located and the lots adjacent thereto shall be kept free from any filth, rubbish, debris, garbage, rags, metal, lumber, paper or other combustible articles or materials, noxious, decayed or offensive matter, cars, partially dismantled cars, parts of cars, tires, appliances or parts thereof, or any offensive or unsanitary matter or conditions, with the following exceptions:

(1) Tires or parts of cars being removed, replaced or installed by the occupant working on his own car on the premises may be reasonably stored in an orderly manner. Parts or tires to be discarded or junked shall be removed immediately.

Lumber and materials to be used for improvements on the premises pursuant to a duly issued building permit in full force and effect may be stored in an orderly manner on the premises.  
(Code 2005, §26-88)

Sec. 26-89. Notice to owner or occupant.
The mayor or his duly authorized representatives or representatives of the planning commission is hereby authorized and empowered to notify in writing, the person, owning, occupying or in control of such premises or land within the city, or an officer or agent thereof, to clean the same within such time as the mayor or the planning commission may designate. Such notice may be handed personally to such person, officer or agent of said person, firm, partnership or association or mailed to the last known address thereof.
(Code 2005, §26-89)

Sec. 26-90. Failure to comply with notice.
Upon the failure, neglect or refusal of any such person so notified to clean said premises and remove the aforesaid conditions within the time specified in the notice, the mayor is authorized and empowered to arrange and pay for the cleaning and removal of the same, either by another department of the city, or by others, and immediately bill the expense thereof to the person or persons responsible.
(Code 2005, §26-90)

Sec. 26-91. Collection of costs.
If any bill rendered as above provided shall remain due and unpaid for a period of 30 days, after the bill is mailed, it shall thereafter accrue with interest at the rate of six percent per annum from the date of the completion of the work ordered by the mayor or planning commission and the city council may in its discretion order the collection thereof by suit or may assess the same against said property as provided in chapter 62 of this Code. The city council may in its discretion provide that such assessment may be paid in not to exceed five equal installments.
(Code 2005, §26-91)

Sec. 26-92. Declared nuisance.
(a) Any violation of this article is hereby declared to be a public nuisance and notwithstanding any other provisions in this article, the city council may commence action in the Circuit Court for the County of Kalamazoo as in case of a public nuisance and obtain an order directing the owner or occupant to remove the public nuisance, refrain from further nuisances, and may obtain an order authorizing the city to abate the nuisance and charge the costs thereof to the owner, occupants and the premises as in all cases heretofore provided.
(b) Action to abate a nuisance hereunder shall not prevent punishment of the responsible person or persons as violators of this Code nor shall such punishment preclude action to abate a nuisance hereunder.
(Code 2005, §26-92)

ARTICLE IV. NOISE CONTROL*

21Sec. 26-108. Excessive noise declared nuisance.
All loud and unusual noises or sounds and annoying vibrations which offend the peace and quiet of persons of ordinary sensibilities are hereby declared to be public nuisances.
(Code 2005, §26-108)

Sec. 26-109. Specific offenses.
Each of the following acts is declared unlawful and prohibited, but this enumeration shall not be deemed to be exclusive, namely:
   (1) Animal and bird noises. The keeping of any animal or bird which, by causing frequent or long continued noise, shall disturb the comfort or repose of any person.
   (2) Construction noises. The erection (including excavating therefor), demolition, alteration or repair of any building, and the excavation of streets and highways, on Sundays and other days, except between the hours of 7:00 a.m. and 6:00 p.m., unless a permit be first obtained from the city superintendent.
   (3) Sound amplifiers. Use of any loud speaker, amplifier or other instrument or device, whether stationary or mounted on a vehicle for any purpose and when so used shall be subject to the following restrictions:
      a. The only sounds permitted are music or human speech.
      b. Operations are permitted for four hours each day, except on Sundays and legal holidays when no operations shall be authorized. The permitted four hours of operation shall be between the hours of 11:30 a.m. and 1:30 p.m., and between the hours of 4:30 p.m. and 6:30 p.m.
      c. Sound amplifying equipment mounted on vehicles shall not be operated unless the sound truck upon which such equipment is mounted is operated at a speed of at least ten miles per hour except when said truck is stopped or impeded by traffic.
      d. Sound shall not be issued within 100 yards of hospitals, schools or churches.
      e. The volume of sound shall be controlled so that it will not be audible for a distance in excess of 100 feet from the sound amplifying equipment and so that the volume is not unreasonably loud, raucous, jarring, disturbing, or a nuisance to persons within the area of audibility.
      f. No sound amplifying equipment shall be operated with an excess of 15 watts of power in the last stage of amplification.
   (4) Engine exhausts. 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.
   (5) Handling merchandise. The creation of loud and excessive noise in connection with loading or unloading any vehicle or the opening and destruction of bales, boxes, crates and containers.
   (6) Blowers. The discharge into the open air of air from any noise creating blower or power fan unless the noise from such blower or fan is muffled sufficiently to deaden such noise.

21 State law reference—Motor vehicle noise, MCL 257.707 et seq.
(7) Horns and signal devices. The sounding of any horn or signal device on any automobile, motorcycle, bus or other vehicle while not in motion, except as a danger signal if another vehicle is approaching, apparently out of control, or to give warning of intent to get under motion, or if in motion, only as a danger signal after or as brakes are being applied and declaration of the vehicle is intended; the creation by means of any such signal device of any unreasonably loud or harsh sound; and the sounding of such device for an unnecessary and unreasonable period of time.

(8) Radios and musical instruments. The playing of any radio, television set, phonograph, or any musical instrument in such a manner or with such volume, or at any time or place so as to annoy or disturb the quiet, comfort, or repose of persons in any office or in any dwelling, hotel, or other type of residence, or of any persons in the vicinity.

(9) Shouting and whistling. Yelling, shouting, hooting, whistling, or singing or the making of any other loud noise 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 school, place of worship, or office, or in any dwelling, hotel or other type of residence, or of any persons in the vicinity.

(10) Whistle or siren. The blowing of any whistle or siren, except to give notice of the time to begin or stop work or as a warning of fire or danger.

(Code 2005, §26-109)

Sec. 26-110. Exceptions.
None of the terms or prohibitions of sections 26-108 and 26-109 shall apply to or be enforced against:

(1) Emergency vehicles. Any police or fire vehicle or any ambulance, while engaged upon emergency business.

(2) Highway maintenance and construction. Excavations or repairs of bridges, streets, or highways by or on behalf of the city, county, or the state, during the night, when the public safety, welfare, and convenience renders it impossible to perform such work during the day.

(Code 2005, §26-110)

Secs. 26-111-26-125. Reserved.

22ARTICLE V. JUNK VEHICLES*

Sec. 26-126. Short title.
This article shall be known and may be cited as the "Galesburg Inoperable Vehicle Ordinance".

(Code 2005, §26-126)


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; the word "shall" is mandatory and not merely directory:

Inoperable vehicle shall mean any vehicle, as defined above, which, for a period of 14 consecutive days or more, is not able to be driven under its own power, if applicable, or, if designed to be drawn by another vehicle, is not capable of being towed upon a highway safely and in compliance with all applicable laws for a distance of not less than one mile; or is not

22 State law references—Abandoned vehicles, MCL 257.252 et seq.
23 State law reference—Snowmobiles. MCL 324.82124
presently licensed and/or registered as required by law; or which vehicle has been abandoned by its owner.

Track racing vehicle shall mean any vehicle specially modified for racing at a commercial racing facility and which otherwise would not comply with legal requirements for use on a highway or other public street.

Vehicle shall mean every device in, upon or by which any person or property is or may be transported or drawn upon a highway, except devices exclusively moved by human power or used exclusively upon stationary rails or tracks and, except, only for the purpose of titling and registration, a mobile home, as defined in section of the Mobile Home Commission Act (MCL 125.2301 et seq.). The term "vehicle" shall include, but not be limited to, motor vehicle, school bus, auto cycle, low-speed vehicle, motorcycle, pick-up camper, pole trailer, semitrailer, special mobile equipment, trailer, trailer coach, truck and truck tractor as defined by the Michigan Vehicle Code (MCL 257.1 et seq.). For the purposes of this ordinance, the term "vehicle" shall also mean golf carts, go-carts, snowmobiles and off-road vehicles (ORV), mopeds and motor scooters.

(Code 2005, §26-127)

Sec. 26-128. Prohibition against inoperable vehicles.

No person shall store, maintain, keep, authorize or permit the storage, maintenance or keeping of any inoperable vehicles on any private property under his or her ownership, tenancy or control, except as otherwise permitted hereinafter. Violation hereof shall be a civil infraction punishable as set forth hereinafter. Each day a violation occurs shall be deemed a separate infraction.

(Code 2005, §26-128)

Sec. 26-129. Exceptions to prohibition.

This article shall not apply to the following:

(1) The storage of inoperable vehicles within a wholly enclosed building which complies with all city ordinances, including applicable building codes.
(2) The storage of inoperable vehicles in a properly licensed and enclosed junk yard.
(3) The storage of inoperable vehicles at a municipal or county vehicle impound lot.
(4) A track racing vehicle used for track racing provided that it complies with each of the following:
   a. It is in full operating condition.
   b. It is not parked or stored in the front yard of any premises.
   c. If parked outside, is at all times completely screened from view of persons standing on adjoining roadways and at ground level of adjoining properties by solid ornamental fencing, terrain, trees or other landscaping.
   d. If a trailer is used for transport, which trailer is also stored outside, it must also be screened as set forth in subsection (4)c above.
   e. No more than one track racing vehicle and trailer maybe parked or stored outside on any premises.

(Code 2005, §26-129)

Sec. 26-130. Prima facie evidence of violation.

Each of the following shall be deemed prima facie evidence that a vehicle is inoperable in violation of this chapter:

(1) Tires not fully inflated.
(2) Lack of a current license plate.
(3) If motorized, no motor.
(4) If motorized, the lack of a battery or other method for starting the vehicle.
Evidence that the vehicle has not moved in 14 days. (Code 2005, §26-130)

Sec. 26-131. Nuisance declared.

The keeping or storage of any inoperable vehicle contrary to this chapter is hereby declared to be a public nuisance, which nuisance may be abated by any means permitted by law or ordinance.
(Code 2005, §26-131)

Sec. 26-132. Notice and opportunity to abate nuisance.

(a) Whenever the city believes a violation is occurring, a representative of the city shall notify the owner of the property and/or the occupant, in writing, by placing such notice in the mail with first-class postage affixed, or in person, at the city's sole discretion, that the abandoned or inoperable vehicle(s) shall be removed or corrected and the nuisance otherwise abated within 14 days of the date of the notice. Notice to the owner shall be sent or given to the address last appearing on the city's tax records. Notice to the occupant shall be sent to the street address of the property involved.

(b) If the nuisance is not removed, corrected or otherwise abated, the city may, at its sole discretion, cite the owner and/or occupant of the premises and remove the abandoned or inoperable vehicle and dispose of it in any manner permitted by law. It shall be unlawful for any person to interfere with, hinder or prevent, irrespective of whether that person is successful, with the removal of the inoperable vehicle from the premises. Interference with, hindrance with or any attempt to prevent city removal of the inoperable vehicle shall be a misdemeanor punishable by imprisonment in jail for a period of not more than 90 days, a fine not to exceed $500.00, or both.

(c) In the case of more than one alleged violation occurring simultaneously or serially on the same premises, the city shall not be required to provide the notice and opportunity to abate the nuisance, as set forth in this section, more than once unless the city officer issuing the citation knows that the owner or occupant of the premises has changed since the prior notice.
(Code 2005, §26-132)

Sec. 26-133. Costs of impoundment.
If the city removes an inoperable vehicle for violation of this chapter, the owner(s) and occupant(s) shall be jointly liable for the actual costs incurred by the city. Those costs shall include, but not be limited to, administrative costs (not less than 15 percent of all other costs), wrecker costs, storage costs and costs for the police officer's time. If the costs remain unpaid after 30 days of billing, such costs shall accrue interest at the rate of six percent per annum from the date of delinquency (30 days after mailing) and until paid in full. The city council may order the costs to be a lien against the premises and collected in the same manner as real property taxes.
(Code 2005, §26-133)

Sec. 26-134. Other remedies.
In addition to the remedies set forth in sections 26-132 and 26-133, the city may also avail itself of any other remedy permitted by law including, but not limited to, suit for collection of impoundment costs and/or injunctive relief.
(Code 2005, §26-134)
Sec. 26-135. Penalties.
Violation of this article, except as otherwise set forth, shall constitute a civil infraction punishable by fines as follows:

1. First finding of responsibility: not less than $75.00 nor more than $150.00.
2. Second finding of responsibility: not less than $200.00 nor more than $300.00.
3. Third finding of responsibility: not less than $300.00 nor more than $500.00.
4. Fourth or subsequent finding of responsibility: $500.00.

In addition, the court shall impose court costs and actual attorney's fees. (Code 2005, §26-135)

Sec. 26-136. Exemption.
Notwithstanding any provision to the contrary in this article, the city police chief, upon written application, may exempt any person from the provisions of this chapter for a period of time not to exceed 30 days where a vehicle is historic or classic, the vehicle is in the process of restoration or repair or any other special circumstances where the owner or occupant is attempting to comply with this article but is unable to do so for reasons outside of his control. (Code 2005, §26-136)
Chapters 27-29

RESERVED
Chapter 30

CITY OF GALESBURG FIRE AND SAFETY CODE*

Sec. 30-1 Sec. 30-4. Removed.

ARTICLE I

Sec. 30-5 – Sec. 30-9. Reserved.

ARTICLE II

Sec. 30-10. Title.
Sec. 30-11. Definitions.
Sec. 30-12. Responsibility for Enforcement.
Sec. 30-13. Liability for Damages.
Sec. 30-14. False Alarm.
Sec. 30-15. Investigations.
Sec. 30-16. Inspections and Unsafe Buildings.
Sec. 30-17. Authority at Fires and Other Emergencies
Sec. 30-18. Interference with Fire Department.
Sec. 30-19. Authority to Barricade.
Sec. 30-20. Authority of Fire Personnel to Exercise Powers of Police Officers.
Sec. 30-21. Authority of Police Personnel to Assist in Enforcing this Code.
Sec. 30-22. Right of Entry.
Sec. 30-23. Closure of Roads or Trails.
Sec. 30-24. Vacating Premises.
Sec. 30-25. Vacant Buildings.
Sec. 30-27. Access Roadways for Fire Apparatus.
Sec. 30-29. Fire Alarm System for Apartments and Rental Dwellings.
Sec. 30-30. Location of Bonfires and Outdoor Rubbish Fires.
Sec. 30-31. Incinerator and Waste Burner Approved.
Sec. 30-32. Use of Incinerators and Approved Waste Burners Restricted.
Sec. 30-33. Permits and Hours of Burning.
Sec. 30-34. Fees.
Sec. 30-35. Unlawful Continuance of Fire Hazard.
Sec. 30-36. Compliance with Order or Notice.
Sec. 30-37. Penalties.

24 State law reference—State fire prevention code MCL 29.31
FIRE PREVENTION AND PROTECTION

Sec. 30-10. Title.

This Ordinance shall be known and cited as the City Fire and Safety Code Ordinance.  
(Ordinance No. 262, effect. 5/7/2012)

Sec. 30-11. Definitions.

Chief of Fire Department shall mean the Chief or authorized Officer(s) of the Galesburg/Charleston Township Fire Department.

Fire Department shall mean the Galesburg/Charleston Township Fire Department or its successor.  
(Ordinance No. 262, effect. 5/7/2012)

Sec. 30-12. Responsibility for Enforcement.

The Chief shall be responsible for the administration and enforcement of this Code. Under his direction the Fire Department shall enforce all Ordinances of the jurisdiction pertaining to:

a. The prevention of fires.

b. The suppression or extinguishing of dangerous or hazardous fires.

c. The storage use and handling of flammable, toxic, corrosive and other gaseous, solid and liquid materials explosive, hazardous

d. The installation and maintenance of automatic, manual and other private fire alarm systems and fire extinguishing equipment.

e. The maintenance and regulation of fire escapes.

f. The maintenance of fire protection and elimination of fire hazards on land and in buildings, structures and other property, including those under construction.

g. The means and adequacy of each exit in the event of fire from factories, schools, hotels, lodging houses, asylums, hospitals, churches, halls, theaters, amphitheaters and all other places in which people work, live or congregate from time-to-time for any purpose.

h. The investigation of the cause, origin and circumstances of fire.  
(Ordinance No. 262, effect. 5/7/2012)

Sec. 30-13. Liability for Damages:

The Chief, or any other Officer charged with the enforcement of this Code, acting in good faith and without malice in the discharge of his duties shall not be personally liable for any damage that may accrue to persons or property as a result of any act or by reason of any act or omission in this discharge of his duties. Any suit brought against such a person because of such act or omission performed by him in the enforcement of any provision in this Code shall be defended by legal counsel provided by the City until final termination of such proceedings.

This Code shall not be construed to relieve from or lessen the responsibility of any person owning, operating or controlling any building or structure for any damages to persons or
property caused by defects or violations of this Code, nor shall the City Fire Department or the City be held as assuming any such liability by reason of the inspections or reinspections authorized by this Code or by reason of any actions taken in connection with the control or extinguishment of any fire or in connection with other official duties.
(Ordinance No. 262, effect. 5/7/2012)

Sec 30-14. False Alarm.

For the purpose of this section, a fire alarm shall be deemed and construed as being any act as follows:

a. The giving, signaling or transmission to any public fire station or company or to any officer or employee thereof, whether by telephone, spoken word or otherwise, of information to the effect that there is a fire at or near the place indicated by the person giving, signaling or transmitting such information.

Any person who shall knowingly and willfully commit any one or more of the following actions shall be guilty of a misdemeanor and punished by imprisonment for not more than 90 days and may be fined not more than $500.00.

a. Raise a false alarm of fire at any gathering or in any public place.

b. Ring any bell or operate any mechanical apparatus, electrical apparatus or combination thereof for the purpose of creating a false alarm of fire.

c. Raise a false alarm of fire orally by telephone or in person.
(Ordinance No. 262, effect. 5/7/2012)

Sec. 30-15. Investigations.

The Fire Department shall investigate promptly the cause, origin and circumstances of each and every fire occurring in the jurisdiction involving loss of life or injury to person or destruction or damage property and, if it appears to the Fire Chief or authorized Officers that such fire is of suspicious origin, they shall then take immediate charge of all physical evidence relating to the cause of the fire and shall pursue the investigation to its conclusion. The Fire Chief shall make a report in writing of all facts and findings relative to each investigation and should it appear during any investigation that a fire is of suspicious origin, he may notify the State Fire Marshal forthwith.

The Police Department shall assist the Fire Department in its investigations whenever requested to do so, unless otherwise directed by the Chief of Police or Sheriff’s Department.
(Ordinance No. 262, effect. 5/7/2012)

Sec. 30-16. Inspections and unsafe Buildings.

The Fire Department shall inspect, as often as may be necessary, all buildings and premises, including such other hazards or appliances as the Chief may designate, for the purpose of ascertaining and causing to be corrected any conditions which would reasonably tend to cause fire, or contribute to its spread, or any violation of the purpose or provisions of this Code and of any other law or standard affecting fire safety.

All buildings which are structurally unsafe or not provided with adequate egress, or which constitute a fire hazard, or are otherwise dangerous to human life, or which in relation to
existing use constitute a hazard to safety or health, or public welfare by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, disaster damage or Abatement, as specified in this Code or any other effective Ordinance are for the purpose of this Section, unsafe buildings.

All such unsafe buildings are hereby declared to be public nuisances and shall be abated by repair rehabilitation, demolition or removal in accordance with procedures set forth by applicable City Ordinances or by any other procedures permitted under the laws of the State of Michigan.

(Ordinance No. 262, effect. 5/7/2012)

Sec. 30-17. Authority at Fires and Other Emergencies.

The Chief and his Officers who may be in charge at the scene of a fire or other emergency involving the protection of life and/or property or any part thereof, shall have the power and authority to direct such operation as may be necessary to extinguish or control any fire, perform any rescue operation, investigate the existence of suspected or reported fires, gas leaks or other hazardous conditions or situations or of taking any other action necessary in the reasonable performance of their duty. In the exercise of such power, the Chief may prohibit any person, vehicle, vessel or thing from approaching the scene and may remove or cause to be removed or kept away from the scene any vehicle, vessel or thing which may impede or interfere with the operations of the Fire Department and; in the judgment of the Chief, any person not actually and usefully employed in the extinguishing of such fire or in the preservation of property in the vicinity thereof.

(Ordinance No. 262, effect. 5/7/2012)

Sec. 30-18. Interference with Fire Department.

Any person who obstructs the operations of the Fire Department in connection with extinguishing any fire, or other emergency, or disobeys any lawful command of the Chief or Officer of the Fire Department may be in charge at such a scene, or any part thereof, or any Police Officer assisting the Fire Department, shall be guilty of a misdemeanor.

(Ordinance No. 262, effect. 5/7/2012)

Sec. 30-19. Authority to Barricade.

The Chief or other Officer of the Fire Department in charge at the scene of an emergency shall have the authority to place ropes, guards, barricades or other obstructions across any street, alley, place or private property in the vicinity of such operation so as to prevent accident or interference with the lawful efforts of the Fire Department to manage and control the situation and to handle fire apparatus.

(Ordinance No. 262, effect. 5/7/2012)

Sec. 30-20. Authority of Fire Personnel to Exercise Powers of Police Officers.

The Chief of the Fire Department or his designee shall have the powers of a Police Officer in performing their duties under this Code.

(Ordinance No. 262, effect. 5/7/2012)

Sec. 30-21. Authority of Police Personnel to Assist In Enforcing this Code.

Whenever requested to do so by the Chief or his Officers the Chief of Police
and/or Sheriff’s Department shall assign such available Police Officers as in his discretion may be necessary to assist the Fire Department in enforcing the provisions of this Code.
(Ordinance No. 262, effect. 5/7/2012)

Sec. 30-22. Right of Entry.

Whenever necessary to make an inspection to enforce any of the provisions of this Code, or whenever the Chief or his Officers has reasonable cause to believe that there exists in any building or upon an premises any condition which makes such building or premises unsafe, the Chief or his Officers may enter such building or premises at all reasonable times to inspect the scene or to perform any duty imposed upon the Chief by this Code, provided that if such building or premises be occupied, he shall first present proper credentials and demand entry; and if such building or premises be unoccupied, he shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and demand entry. If such entry is refused, the Chief or his authorized representative shall have recourse to every remedy provided by law to secure entry.

No owner or occupant or any either person having charge, care or control of any building or premises shall fail or neglect, after proper demand is made as herein provided, to properly permit entry therein by the Chief or his Officers for the purpose of inspection and examination pursuant to this Code. Any person violating this subdivision shall be guilty of misdemeanor.
(Ordinance No. 262, effect. 5/7/2012)

Sec. 30-23. Closure of Roads or Trails.

The Chief may install one or more gates, cables or other barricades and securely lock the scene to prevent the use by unauthorized persons of any road that is not a public highway and over which the Fire Department has the right to pass, either by easement, license, municipal ownership or otherwise, for purposes relating to fire prevention or control, provided such action does not preclude the authorized users of such road or trail from using the same.

No person, except a public officer acting within the scope of his public duties, shall trespass upon any road or trail which has been closed and obstructed in the matter authorized by this Section without the express permission of the Chief, nor shall any person park any vehicle so as to obstruct.
(Ordinance No. 262, effect. 5/7/2012)

Sec. 30-24. Vacating Premises.

Upon vacating or abandoning any premises, the occupant thereof shall remove any noxious and hazardous material or waste matter which has been deposited, allowed to come to rest or permitted to accumulate thereon, and such premises shall be left in a clean and neat condition.
(Ordinance No. 262, effect. 5/7/2012)

Sec. 30-25. Vacant Buildings.

Every person owning or in charge or control of any vacant building shall remove therefrom all accumulations of flammable or combustible waste or rubbish and shall securely lock, barricade or otherwise secure all doors, windows and other openings thereof.
(Ordinance No. 262, effect. 5/7/2012)

No person shall place or keep any post, fence, vehicle, growth, trash, storage or other material or thing near any fire hydrant, fire department connection, or fire protection system control valve that would prevent such equipment or hydrant from being immediately discernible or in any other manner deter or hinder the Fire Department from gaining immediate access to said equipment or hydrant. A minimum three foot clear space shall be maintained around the circumference of the fire hydrant except as otherwise required or approved by the Chief. In addition, no vehicle shall be parked on either public or private property, within 15 feet of a fire hydrant along any side of the working face of the fire hydrant. The "working face" of a fire hydrant is defined as those sides of a fire hydrant on which a fire protection system water discharge outlet is located.

(Ordinance No. 262, effect. 5/7/2012)

Sec. 30-27. Access Roadways for Fire Apparatus.

Every building hereafter constructed shall be accessible to Fire Department apparatus by way of access roadways with all-weather driving surface of not less than 20 feet of unobstructed width with adequate roadway turning radius capable of supporting the imposed loads of fire apparatus and having a minimum of 15 feet of vertical clearance. Dead-end Fire Department access made in excess of 150 feet long shall be provided with approved provisions for the turning around of Fire Department apparatus.

(Ordinance No. 262, effect. 5/7/2012)


The Chief shall designate the type and number of fire appliances to be installed and maintained in and upon all buildings and premises in the jurisdiction other than private dwellings. This shall be done according to the relative severity of probable fire including the rapidity with which it may spread. The Chief’s authority hereunder shall include the right to require the installation of automatic fire alarm systems for those buildings or premises of a commercial or industrial nature which are not served by a municipal water system. All appliances required hereunder shall be of a type suitable for the probable class of fire associated with such building or premises and shall have approval of the Chief.

Portable fire extinguishers shall be in accordance with UFC Standard No. 10-1.

In occupancies of an especially hazardous nature or where special hazards exist in addition to the normal hazard of the occupancy, or where access for fire apparatus is unduly difficult, additional safeguards may be required consisting of additional fire appliance units, more than one type of appliance, or special systems suitable for the protection of the hazard involved. Such devices or appliances may consist of automatic fire alarm systems, automatic sprinkler or water spray systems, standpipe and hose, fixed or portable fire extinguishers, suitable asbestos blankets, breathing apparatus, manual or automatic covers, or carbon dioxide, foam or other special fire-extinguishing systems. Where such systems are installed, they shall be in accordance with the applicable Uniform Fire Code Standards or standards of the National Fire Protection Association when Uniform Fire Code Standards do not apply.

(Ordinance No. 262, effect. 5/7/2012)

Sec. 30-29. Fire Alarm System for Apartments and Rental Dwellings.

An approved automatic fire alarm system shall be installed in the following occupancies: Apartments, Apartment houses - two or more units.

Rental Dwellings. Any dwelling that is rented or leased is required to have approved smoke detectors.
Private Residential Dwellings. Any owner-occupied single-family dwelling built since detectors as required under the City Building Code.

The alarm system shall include provisions for smoke detection and manual operation in interior corridors and automatic detection in storage rooms, laundry rooms, furnace rooms and similar common areas.
(Ordinance No. 262, effect. 5/7/2012)

Sec. 30-30. Location of Bonfires and Outdoor Rubbish Fires.

No person shall kindle or maintain any fire or authorize any fire to be kindled or maintained on any private land unless (1) the location is not less than 50 feet from any structure adequate provision is made to prevent fire from spreading to within 50 feet of any structure, or (2) the fire is contained in an approved waste burner as defined in Section 30-31 and located safely not less than 15 feet from any structure in no event may any such fire be kindled or maintained within 10 feet of the paved or graveled portion of any public roadway.

No person, persons, firm or corporation shall, within the City, create an open fire out-of-doors for the burning of rubbish or any form of waste materials for the purpose of disposing of the same.

For the purposes of this Act, an open fire is deemed to be any fire where the flames are open and visible and are not covered by a hood or furnace with a suitable chimney to carry away the smoke.

It shall be unlawful for any person, firm or corporation to burn or cause to be burned any waste material, refuse, paper or other combustible debris within the City of Galesburg, unless done in accordance with the provisions hereof.

No burning shall be permitted inside a building or structure unless the same is done in a stove, furnace or incinerator approved by the Fire Chief and/or Building Inspector of the City of Galesburg.

No burning shall be done at any time or place of any materials which, when burning, give off foul or obnoxious odors or a dense smoke or when wind conditions will create or be apt to create a nuisance to anyone or the property of any one in the vicinity thereof.

Leaf burning shall only be allowed on private property when it can be done without the fire spreading arid when winds are calm. All leaf fires shall be attended until fully extinguished.

The Chief of the Fire Department may prohibit outdoor rubbish fires when atmospheric conditions or local circumstances make such fires hazardous in his discretion.
(Ordinance No. 262)

Sec. 30-31. Incinerator and Waste Burner Approved.

The definition of incinerator reads as follows:

"Incinerator" is a structure, or portion thereof, container, device or other appliance constructed in accordance with the applicable standards and designed, used or intended to be used for the disposal of combustible rubbish by burning.
The following definition is added:

"Waste burner approved" is a non-combustible masonry or metal container, not larger than 55 US gallons or 7.35 cubic feet, in good condition and containing no openings larger than ½ square inch, used for residential burning of combustible rubbish. An approved waste burner must have a cover or spark arrester with openings no larger than ½ square inch.

(Ordinance No. 262)

Sec. 30-32. Use of incinerators and Approved Waste Burners Restricted.

If the Chief finds that burning in incinerators or approved waste burners located within 500 feet of brush or grass covered areas of the City during periods of high fire hazard weather conditions will create an undue fire hazard, during the existence of such periods a person shall not use any incinerator or approved waste burner whatsoever for burning.

(Ordinance No. 262, effect. 5/7/2012)

Sec. 30-33. Permits and Hours of Burning.

Waste matter shall not be disposed of by burning except as follows:

a. All burning shall take place during the hours of 7:00 a.m. and 9:00 p.m.

b. Burning shall be confined to incinerators or approved waste burners other than small campfires.

EXCEPTIONS: All burning shall be done in an approved incinerator or approved waste burner, except that outdoor burning of combustible waste matter other than paper may be done in the open if:

a. A permit to engage in burning is obtained from the Chief or his authorized Officers, except leaf burning in accordance with Section 30-30 does not require a permit.

b. Such burning is done at a distance of more than 50 feet from any building, structure or other combustible waste.

c. A garden hose and water supply or other fire-extinguishing equipment is on hand and a competent person is in constant attendance until all fire has been extinguished. Applicants for such permit must be in legal control of the lot or parcel of land on which the burning is to be done.

d. A person who has obtained a permit shall not build an open fire when weather conditions are such that such fire would be a hazard to surrounding buildings and property.

Any permit or certificate issued under this Code may be suspended or revoked when it is determined after a hearing by the Chief that:

a. It is used by a person other than the person to whom the permit or certificate was issued.
b. It is used for a location other than that for which it was issued.

c. Any of the conditions or limitations set forth in the permit or certificate have been violated.

d. The permittee fails, refuses or neglects to comply with any order or notice duly served upon him under the provisions of this Code within the time provided therein.

e. There has been any false statement or misrepresentation as to a material fact in the application on which the permit or application was based.

(Ordinance No. 262, effect. 5/7/2012)
Sec. 30-34. Fees.

The City Council reserves the right and authority to establish by Resolution at any regular public meeting or at any special meeting called for such purpose a schedule of fees, rates and charges for the administering of the said City Fire and Safety Code, and for the conducting of various activities thereunder, provided that the same are reasonable and bear a reasonable relationship to the cost and expense of such administration and activity. The City Council shall further have the right to amend the aforementioned resolution from time-to-time within the foregoing limits of reasonableness.

(Ordinance No. 262, effective 5/7/2012)

Sec. 30-35. Unlawful Continuance of Fire Hazard.

Any person operating or maintaining any occupancy, premises or vehicle subject to this Code who shall permit any fire hazard to exist on premises under his control or who shall fail to take immediate action to abate a fire hazard when ordered or notified to do so by the Chief of his Officers shall be guilty of a misdemeanor.

(Ordinance No. 262, effective 5/7/2012)

Sec. 30-36. Compliance with Order or Notice.

Any Order or notice issued or served as provided in this Code shall be complied with by the owner, operator, occupant or other person responsible for the condition or violation to which the Order or notice pertains. In cases of extreme danger to persons or property immediate compliance shall be required. If the building or other premises is owned by one person and occupied by another, under lease or otherwise, and the Order or notice requires additions or changes in the building or premises such as would Immediately become real estate and be the property of the owner of the building or premises, such Order or notice shall be complied with by the owner unless the owner and occupant have otherwise agreed between themselves in which event, the occupant shall comply.

(Ordinance No. 262, effective 5/7/2012)

Sec. 30-37. Penalties.

Any violation of this Ordinance shall be punishable by a fine not to exceed $500.00 plus costs and/or confinement in the Kalamazoo County Jail for a term not to exceed 90 days. In addition, the City specifically reserves the right and shall have the authority to proceed in any court of competent jurisdiction for the purpose of obtaining an Injunction, Restraining Order or other appropriate remedy to compel compliance with this Ordinance.

(Ordinance No. 262, effective 5/7/2012)
CITY OF GALESBURG
KALAMAZOO COUNTY, MICHIGAN
ORDINANCE 262

AN ORDINANCE TO AMEND THE GALESBURG CITY CODE OF ORDINANCES; TO REGULATE OPEN FIRES, THE BURNING OF RUBBISH, CAUSING EXCESSIVE SMOKE AND OBNOXIOUS ODORS; TO DEFINE OPEN FIRES; RESPONSIBILITY FOR ENFORCEMENT; LIABILITY OF FIRE PERSONNEL; TO PROVIDE FOR THE INSPECTION OF BUILDINGS AND PREMISES BY THE FIRE DEPARTMENT; UNSAFE BUILDINGS, INVESTIGATIONS; TO DEFINE CHIEF OF THE FIRE DEPARTMENT; THE USE OF INCINERATOR, AND APPROVED WASTE BURNER; ... OBSTRUCTION OF FIRE PROTECTION EQUIPMENT; ACCESS ROADWAYS FOR FIRE APPARATUS; FIRE ALARM SYSTEMS FOR APARTMENTS AND RENTAL AND PRIVATE DWELLINGS; AUTOMATIC FIRE EXTINGUISHING SYSTEMS; REPORTING OF FIRES OR FALSE ALARMS; LOCATION OF BONFIRES AND OUTDOOR BURNING; TO PERMIT THE SETTING OF CERTAIN FEES FOR ADMINISTRATION AND ENFORCEMENTS; TO REPEAL ALL OTHER ORDINANCES OR PARTS THEREIN INCONSISTENT OR CONTRARY TO THIS ORDINANCE; AND TO PROVIDE FOR AN EFFECTIVE DATE FOR THIS ORDINANCE.

THE CITY OF GALESBURG ORDAINS:

The Code of Ordinances for the City of Galesburg is hereby amended and shall now read:

ARTICLE I
Chapter 30, Sections 5 through 9, are hereby reserved for future use.

ARTICLE II.
Chapter 30, Sections 30-10 through 30-37 are hereby added and shall now read:

Sec. 30-10. Title.
This Ordinance shall be known and cited as the City Fire and Safety Code Ordinance.

Sec. 30-11. Definitions.

Chief of Fire Department shall mean the Chief or authorized Officer(s) of the Galesburg/Charleston Township Fire Department.

Fire Department shall mean the Galesburg/Charleston Township Fire Department or its successor.

Sec. 30-12. Responsibility for Enforcement.

The Chief shall be responsible for the administration and enforcement of this Code. Under his direction the Fire Department shall enforce all Ordinances of the jurisdiction pertaining to:

a. The prevention of fires.

b. The suppression or extinguishing of dangerous or hazardous fires.
c. The storage use and handling of flammable, toxic, corrosive and other gaseous, solid and liquid materials explosive, hazardous

d. The installation and maintenance of automatic, manual and other private fire alarm systems and fire extinguishing equipment.

e. The maintenance and regulation of fire escapes.

f. The maintenance of fire protection and elimination of fire hazards on land and in buildings, structures and other property, including those under construction.

g. The means and adequacy of each exit in the event of fire from factories, schools, hotels, lodging houses, asylums, hospitals, churches, halls, theaters, amphitheatres and all other places in which people work, live or congregate from time-to-time for any purpose.

h. The investigation of the cause, origin and circumstances of fire.

Sec. 30-13. Liability for Damages:

The Chief, or any other Officer charged with the enforcement of this Code, acting in good faith and without malice in the discharge of his duties shall not be personally liable for any damage that may accrue to persons or property as a result of any act or by reason of any act or omission in this discharge of his duties. Any suit brought against such a person because of such act or omission performed by him in the enforcement of any provision in this Code shall be defended by legal counsel provided by the City until final termination of such proceedings.

This Code shall not be construed to relieve from or lessen the responsibility of any person owning, operating or controlling any building or structure for any damages to persons or property caused by defects or violations of this Code, nor shall the City Fire Department or the City be held as assuming any such liability by reason of the inspections or reinspections authorized by this Code or by reason of any actions taken in connection with the control or extinguishment of any fire or in connection with other official duties.

Sec 30-14. False Alarm.

For the purpose of this section, a fire alarm shall be deemed and construed as being any act as follows:

a. The giving, signaling or transmission to any public fire station or company or to any officer or employee thereof, whether by telephone, spoken word or otherwise, of information to the effect that there is a fire at or near the place indicated by the person giving, signaling or transmitting such information.

Any person who shall knowingly and willfully commit any one or more of the following actions shall be guilty of a misdemeanor and punished by imprisonment for not more than 90 days and may be fined not more than $500.00.

a. Raise a false alarm of fire at any gathering or in any public place.

b. Ring any bell or operate any mechanical apparatus, electrical apparatus or combination thereof for the purpose of creating a false alarm of fire.

c. Raise a false alarm of fire orally by telephone or in person.
Sec. 30-15. Investigations.

The Fire Department shall investigate promptly the cause, origin and circumstances of each and every fire occurring in the jurisdiction involving loss of life or injury to person or destruction or damage property and; if it appears to the Fire Chief or authorized Officers that such fire is of suspicious origin, they shall then take immediate charge of all physical evidence relating to the cause of the fire and shall pursue the investigation to its conclusion. The Fire Chief shall make a report in writing of all facts and findings relative to each investigation and should it appear during any investigation that a fire is of suspicious origin, he may notify the State Fire Marshal forthwith.

The Police Department shall assist the Fire Department in its investigations whenever requested to do so, unless otherwise directed by the Chief of Police or Sheriff’s Department.

Sec. 30-16. Inspections and unsafe Buildings.

The Fire Department shall inspect, as often as may be necessary, all buildings and premises, including such other hazards or appliances as the Chief may designate, for the purpose of ascertaining and causing to be corrected any conditions which would reasonably tend to cause fire, or contribute to its spread, or any violation of the purpose or provisions of this Code and of any other law or standard affecting fire safety.

All buildings which are structurally unsafe or not provided with adequate egress, or which constitute a fire hazard, or are otherwise dangerous to human life, or which in relation to existing use constitute a hazard to safety or health, or public welfare by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, disaster damage or abandonment, as specified in this Code or any other effective Ordinance are for the purpose of this Section, unsafe buildings.

All such unsafe buildings are hereby declared to be public nuisances and shall be abated by repair rehabilitation, demolition or removal in accordance with procedures set forth by applicable City Ordinances or by any other procedures permitted under the laws of the State of Michigan.

Sec. 30-17. Authority at Fires and Other Emergencies.

The Chief and his Officers who may be in charge at the scene of a fire or other emergency involving the protection of life and/or property or any part thereof, shall have the power and authority to direct such operation as may be necessary to extinguish or control any fire, perform any rescue operation, investigate the existence of suspected or reported fires, gas leaks or other hazardous conditions or situations or of taking any other action necessary in the reasonable performance of their duty. In the exercise of such power, the Chief may prohibit any person, vehicle, vessel or thing from approaching the scene and may remove or cause to be removed or kept away from the scene any vehicle, vessel or thing which may impede or interfere with the operations of the Fire Department and; in the judgment of the Chief, any person not actually and usefully employed in the extinguishing of such fire or in the preservation of property in the vicinity thereof.

Sec. 30-18. Interference with Fire Department.

Any person who obstructs the operations of the Fire Department in connection with extinguishing any fire, or other emergency, or disobeys any lawful command of the Chief or Officer of the Fire Department may be in charge at such a scene, or any part thereof, or any Police Officer assisting the Fire Department, shall be guilty of a misdemeanor.
Sec. 30-19. Authority to Barricade.

The Chief or other Officer of the Fire Department in charge at the scene of an emergency shall have the authority to place ropes, guards, barricades or other obstructions across any street, alley, place or private property in the vicinity of such operation so as to prevent accident or interference with the lawful efforts of the Fire Department to manage and control the situation and to handle fire apparatus.

Sec. 30-20. Authority of Fire Personnel to Exercise Powers of Police Officers.

The Chief of the Fire Department or his designee shall have the powers of a Police Officer in performing their duties under this Code.

Sec. 30-21. Authority of Police Personnel to Assist in Enforcing this Code.

Whenever requested to do so by the Chief or his Officers the Chief of Police and/or Sheriff's Department shall assign such available Police Officers as in his discretion may be necessary to assist the Fire Department in enforcing the provisions of this Code.

Sec. 30-22. Right of Entry.

Whenever necessary to make an inspection to enforce any of the provisions of this Code, or whenever the Chief or his Officers has reasonable cause to believe that there exists in any building or upon any premise any condition which makes such building or premises unsafe, the Chief or his Officers may enter such building or premises at all reasonable times to inspect the scene or to perform any duty imposed upon the Chief by this Code, provided that if such building or premises be occupied, he shall first present proper credentials and demand entry; and if such building or premises be unoccupied, he shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and demand entry. If such entry is refused, the Chief or his authorized representative shall have recourse to every remedy provided by law to secure entry.

No owner or occupant or any either person having charge, care or control of any building or premises shall fail or neglect, after proper demand is made as herein provided, to properly permit entry therein by the Chief or his Officers for the purpose of inspection and examination pursuant to this Code. Any person violating this subdivision shall be guilty of misdemeanor.

Sec. 30-23. Closure of Roads or Trails.

The Chief may install one or more gates, cables or other barricades and securely lock the scene to prevent the use by unauthorized persons of any road that is not a public highway and over which the Fire Department has the right to pass, either by easement, license, municipal ownership or otherwise, for purposes relating to fire prevention or control, provided such action does not preclude the authorized users of such road or trail from using the same.

No person, except a public officer acting within the scope of his public duties, shall trespass upon any road or trail which has been closed and obstructed in the matter authorized by this Section without the express permission of the Chief, nor shall any person park any vehicle so as to obstruct.

Sec. 30-24. Vacating Premises.
Upon vacating or abandoning any premises, the occupant thereof shall remove any noxious and hazardous material or waste matter which has been deposited, allowed to come to rest or permitted to accumulate thereon, and such premises shall be left in a clean and neat condition.

Sec. 30-25. Vacant Buildings.

Every person owning or in charge or control of any vacant building shall remove therefrom all accumulations of flammable or combustible waste or rubbish and shall securely lock, barricade or otherwise secure all doors, windows and other openings thereof.


No person shall place or keep any post, fence, vehicle, growth, trash, storage or other material or thing near any fire hydrant, fire department connection, or fire protection system control valve that would prevent such equipment or hydrant from being immediately discernible or in any other manner deter or hinder the Fire Department from gaining immediate access to said equipment or hydrant. A minimum three foot clear space shall be maintained around the circumference of the fire hydrant except as otherwise required or approved by the Chief. In addition, no vehicle shall be parked on either public or private property, within 15 feet of a fire hydrant along any side of the working face of the fire hydrant. The "working face" of a fire hydrant is defined as those sides of a fire hydrant on which a fire protection system water discharge outlet is located.

Sec. 30-27. Access Roadways for Fire Apparatus.

Every building hereafter constructed shall be accessible to Fire Department apparatus by way of access roadways with all-weather driving surface of not less than 20 feet of unobstructed width with adequate roadway turning radius capable of supporting the imposed loads of fire apparatus and having a minimum of 15 feet of vertical clearance. Dead-end Fire Department access made in excess of 150 feet long shall be provided with approved provisions for the turning around of Fire Department apparatus.


The Chief shall designate the type and number of fire appliances to be installed and maintained in and upon all buildings and premises in the jurisdiction other than private dwellings. This shall be done according to the relative severity of probable fire including the rapidity with which it may spread. The Chief’s authority hereunder shall include the right to require the installation of automatic fire alarm systems for those buildings or premises of a commercial or industrial nature which are not served by a municipal water system. All appliances required hereunder shall be of a type suitable for the probable class of fire associated with such building or premises and shall have approval of the Chief.

Portable fire extinguishers shall be in accordance with UFC Standard No. 10-1.

In occupancies of an especially hazardous nature or where special hazards exist in addition to the normal hazard of the occupancy, or where access for fire apparatus is unduly difficult, additional safeguards may be required consisting of additional fire appliance units, more than one type of appliance, or special systems suitable for the protection of the hazard involved. Such devices or appliances may consist of automatic fire alarm systems, automatic sprinkler or water spray systems, standpipe and hose, fixed or portable fire extinguishers, suitable asbestos blankets, breathing apparatus, manual or automatic covers, or carbon dioxide, foam or other special fire-extinguishing systems. Where such systems are installed, they shall be in accordance
with the applicable Uniform Fire Code Standards or standards of the National Fire Protection
Association when Uniform Fire Code Standards do not apply.

Sec. 30-29. Fire Alarm System for Apartments and Rental Dwellings.

An approved automatic fire alarm system shall be installed in the following occupancies:

**Apartments.** Apartment houses - two or more units.

**Rental Dwellings.** Any dwelling that is rented or leased is required to have approved smoke
detectors.

**Private Residential Dwellings.** Any owner-occupied single-family dwelling built since detectors as
required under the City Building Code.

The alarm system shall include provisions for smoke detection and manual operation in interior
corridors and automatic detection in storage rooms, laundry rooms, furnace rooms and similar
common areas.

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provision is made to prevent fire from spreading to within 50 feet of any structure, or (2) the fire
is contained in an approved waste burner as defined in Section 30-31 and located safely not less
than 15 feet from any structure in no event may any such fire be kindled or maintained within 10
feet of the paved or graveled portion of any public roadway.

No person, persons, firm or corporation shall, within the City, create an open fire out-of-doors
for the burning of rubbish or any form of waste materials for the purpose of disposing of the
same.

For the purposes of this Act, an open fire is deemed to be any fire where the flames are open and
visible and are not covered by a hood or furnace with a suitable chimney to carry away the
smoke.

It shall be unlawful for any person, firm or corporation to burn or cause to be burned any waste
material, refuse, paper or other combustible debris within the City of Galesburg, unless done in
accordance with the provisions hereof.

No burning shall be permitted inside a building or structure unless the same is done in a stove,
furnace or incinerator approved by the Fire Chief and/or Building Inspector of the City of
Galesburg.

No burning shall be done at any time or place of any materials which, when burning, give off
foul or obnoxious odors or a dense smoke or when wind conditions will create or be apt to
create a nuisance to anyone or the property of any one in the vicinity thereof.

Leaf burning shall only be allowed on private property when it can be done without the fire
spreading arid when winds are calm. All leaf fires shall be attended until fully extinguished.

The Chief of the Fire Department may prohibit outdoor rubbish fires when atmospheric
conditions or local circumstances make such fires hazardous in his discretion.
Sec. 30-31. Incinerator and Waste Burner Approved.

The definition of incinerator reads as follows:

"Incinerator" is a structure, or portion thereof, container, device or other appliance constructed in accordance with the applicable standards and designed, used or intended to be used for the disposal of combustible rubbish by burning.

The following definition is added:

"Waste burner approved" is a non-combustible masonry or metal container, not larger than 55 US gallons or 7.35 cubic feet, in good condition and containing no openings larger than ½ square inch, used for residential burning of combustible rubbish. An approved waste burner must have a cover or spark arrester with openings no larger than ½ square inch.

Sec. 30-32. Use of incinerators and Approved Waste Burners Restricted.

If the Chief finds that burning in incinerators or approved waste burners located within 500 feet of brush or grass covered areas of the City during periods of high fire hazard weather conditions will create an undue fire hazard, during the existence of such periods a person shall not use any incinerator or approved waste burner whatsoever for burning.

Sec. 30-33. Permits and Hours of Burning.

Waste matter shall not be disposed of by burning except as follows:

a. All burning shall take place during the hours of 7:00 a.m. and 9:00 p.m.

b. Burning shall be confined to incinerators or approved waste burners other than small campfires.

EXCEPTIONS: All burning shall be done in an approved incinerator or approved waste burner, except that outdoor burning of combustible waste matter other than paper may be done in the open if:

a. A permit to engage in burning is obtained from the Chief or his authorized Officers, except leaf burning in accordance with Section 30-30 does not require a permit.

   b. Such burning is done at a distance of more than 50 feet from any building, structure or other combustible waste.

   c. A garden hose and water supply or other fire-extinguishing equipment is on hand and a competent person is in constant attendance until all fire has been extinguished. Applicants for such permit must be in legal control of the lot or parcel of land on which the burning is to be done.

   d. A person who has obtained a permit shall not build an open fire when weather conditions are such that such fire would be a hazard to surrounding buildings and property.
Any permit or certificate issued under this Code may be suspended or revoked when it is determined after a hearing by the Chief that:

   e. It is used by a person other than the person to whom the permit or certificate was issued.

   f. It is used for a location other than that for which it was issued.

   g. Any of the conditions or limitations set forth in the permit or certificate have been violated.

   h. The permittee fails, refuses or neglects to comply with any order or notice duly served upon him under the provisions of this Code within the time provided therein.

   i. There has been any false statement or misrepresentation as to a material fact in the application on which the permit or application was based.

Sec. 30-34. Fees.

The City Council reserves the right and authority to establish by Resolution at any regular public meeting or at any special meeting called for such purpose a schedule of fees, rates and charges for the administering of the said City Fire and Safety Code, and for the conducting of various activities thereunder, provided that the same are reasonable and bear a reasonable relationship to the cost and expense of such administration and activity. The City Council shall further have the right to amend the aforementioned resolution from time-to-time within the foregoing limits of reasonableness.

Sec. 30-35. Unlawful Continuance of Fire Hazard.

Any person operating or maintaining any occupancy, premises or vehicle subject to this Code who shall permit any fire hazard to exist on premises under his control or who shall fail to take immediate action to abate a fire hazard when ordered or notified to do so by the Chief of his Officers shall be guilty of a misdemeanor.

Sec. 30-36. Compliance with Order or Notice.

Any Order or notice issued or served as provided in this Code shall be complied with by the owner, operator, occupant or other person responsible for the condition or violation to which the Order or notice pertains. In cases of extreme danger to persons or property immediate compliance shall be required. If the building or other premises is owned by one person and occupied by another, under lease or otherwise, and the Order or notice requires additions or changes in the building or premises such as would immediately become real estate and be the property of the owner of the building or premises, such Order or notice shall be complied with by the owner unless the owner and occupant have otherwise agreed between themselves in which event, the occupant shall comply.

Sec. 30-37. Penalties.

Any violation of this Ordinance shall be punishable by a fine not to exceed $500.00 plus costs and/or confinement in the Kalamazoo County Jail for a term not to exceed 90 days. In addition, the City specifically reserves the right and shall have the authority to proceed in any court of
competent jurisdiction for the purpose of obtaining an Injunction, Restraining Order or other appropriate remedy to compel compliance with this Ordinance.

ARTICLE III

All Ordinances or parts thereof in conflict herewith are hereby repealed and shall be of no further force and effect.

ARTICLE IV

Any and all sections, terms, provisions and/or clauses herein shall be deemed independent and severable. Should any court of competent jurisdiction hold any section, term, provision or clause void and/or invalid, all remaining sections, terms, provisions and/or clauses not held void and/or invalid shall continue in force and effect.

ARTICLE V

This Ordinance shall take force and effect on May 7, 2012.

CERTIFICATE

I, Karen Bresson: City of Galesburg Clerk, do hereby certify that the foregoing City of Galesburg Ordinance Number 262 was adopted by the City Council at a regular meeting held on May 7, 2012, and that the following is a record of the vote of the members of said City Council on said Ordinance.

AYES: Yingling, Nicolow, Henson, Diller, VanNess, Kissinger and Mayor Garrett.

NAYS: 0

ABSENT:0

ABSTAIN: 0

Karen Bresson City Clerk
Chapters 31-33

RESERVED
Chapter 34

LAND DIVISIONS AND OTHER SUBDIVISIONS OF LAND*

Article I. In General
Sec. 34-1. Short title.
Sec. 34-2. Purpose and construction.
Sec. 34-3. Scope.
Sec. 34-4. Definitions.
Sec. 34-5. Submission of plats.
Sec. 34-6. Enforcement.
Sec. 34-7. Fees.
Secs. 34-8-34-22. Reserved.

Article II Preliminary Map
Sec. 34-23. Required information.
Sec. 34-24. Supplementary information.
Sec. 34-25. Tentative map procedure.
Sec. 34-26. Survey.
Secs. 34-27-34-41. Reserved.

Article III. Final Map
Sec. 34-42. Required information.
Sec. 34-43. Preparation.
Sec. 34-44. Street names.
Sec. 34-45. Certificates.
Sec. 34-46. Procedure.

Article IV. Improvements and Regulations
Sec. 34-63. Improvements required.
Sec. 34-64. Lands dedicated.
Sec. 34-65. Subdivisions vacated.
Sec. 34-66. Adjoining street systems.
Sec. 34-67. Access.
Sec. 34-68. Easements.
Sec. 34-69. Streets and alleys.
Sec. 34-70. Blocks.
Sec. 34-71. Lots.
Sec. 34-72. Lot division.
Sec. 34-73. Topography.
Sec. 34-74. Street lighting and utilities.
Sec. 34-75. Railroads.
Sec. 34-76. School and recreation area sites.
Sec. 34-77. Appeal or suspension of rules.
Sec. 34-78. Variances

* State law reference—Land division act MCL 289.3113
LAND DIVISIONS AND OTHER SUBMISSIONS OF LAND

ARTICLE I. IN GENERAL

Sec. 34-1. Short title.

This chapter shall be known and may be cited as the "Subdivision Ordinance" for the city.
(Code 2005,§34-1)

Sec. 34-2. Purpose and construction.

In its interpretation and application, provisions of this chapter shall be held to be minimum requirements adopted for the promotion, protection and enhancement of the public health, safety, morals and general welfare. Among other purposes, such provisions are intended to provide for the proper and orderly subdivision of land and for the establishment and regulation of residential plats, so as to provide for adequate and essential public improvements and utilities. This chapter shall be construed in harmony with chapter 82, zoning.
(Code 2005,§34-2)

Sec. 34-3. Scope.

This chapter is not intended to repeal, abrogate, annul, or in any way impair or interfere with existing provisions of other laws or ordinances, or of any private restrictions placed upon property by covenant, deed or other private easement. Where this chapter imposes greater restrictions than are imposed or required by such existing provisions of law or ordinance or by such rules, regulations or permits, or by such private restrictions, the provisions of this chapter shall, where permissible under existing laws, control. However, the provisions of this chapter shall not be controlling in circumstances where they conflict with provisions of the Land Division Act unless said Act permits the conflicting city provision to control.
(Code 2005,§34-3)

Sec. 34-4. Definitions.

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

Subdivision means the division within one calendar year of an existing lot, tract or parcel of land, platted or unplatted, into two or more lots or other divisions of land for the purpose, whether immediate or future, of transfer of ownership or building development, including all changes in streets or lot lines.

(b) All other terms contained herein shall have the meanings and definitions given by the Land Division Act (MCL 560.101 et seq.).

(Code 2005,§34-4)

Sec. 34-5. Submission of plats.

Whenever any subdivision of land shall hereafter be laid out in the city, the subdivider thereof or his agent shall first submit four identical tentative maps and later four final maps thereof to the city clerk. Said maps and all supplementary materials and

26 State law reference—Definitions, MCL 560.102
procedure relating thereto shall, in all respect, be in full compliance with the provisions of this chapter and the Land Division Act (MCL 560.101 et seq.).
(Code 2005,§34-5)

Sec. 34-6. Enforcement.

No plat shall be transmitted to any county or state approving authority for official action until each plat shall have, in the first instance, been approved by the city council in accordance with the regulations of this chapter.

No person shall sell or convey any lot in any plat by reference thereto until such plat has been duly recorded in the office of the county register of deeds.

The description of any lot or parcel in a plat of a subdivision, filed hereafter, by metes and bounds in the instrument of transfer or other documents used in the process of selling or transfer, is a violation of these regulations.

Any sale or option or contract to sell, contrary to the provisions of these regulations, shall be voidable at the option of the buyer or person contracting to purchase, his heirs, personal representatives or assigns within two years after the execution of the document of sale or contract but such document shall be binding upon the vendor, his assigns, heirs or devisees.

Public sewer or water service shall not be provided for any dwelling or other structure located on a lot or plot subdivided or sold in violation of these regulations, excepting that such service may be installed in any structure when deemed necessary by the health department for the protection of the public health.

No building permit shall be issued for the construction of any structure located on a plot which does not front directly on a public street or on any lot or plot subdivided or sold in violation of these regulations, except as provided in section designated "access."

Any act or failure to act done in violation of the provisions of this chapter is hereby declared to be a nuisance per se and any person, firm or corporation who violates, disobeys, omits, neglects, or refuses to comply with any of the provisions of this chapter shall be punished for each offense as provided in section 1-10 of this Code. Each day that a violation is permitted to exist shall constitute a separate offense.

The city may bring an action in its own name to restrain or prevent any violation of this chapter or any continuance of such violation. In such case the person found violating this chapter shall pay the city's costs and expenses in enforcing this chapter including its attorney fees.
(Code 2005,§34-7)

Sec. 34-7. Fees.

Any person filing a plat pursuant hereto, shall pay such fees as may be set from time to time by resolution of the city council and until the fee is paid said plat shall not be considered or reviewed.
(Code 2005,§34-7)

Secs. 34-8-34-22. Reserved.

27 State law reference—Local fees, MCL 560.249
ARTICLE II. PRELIMINARY MAP*

Sec. 34-23. Required information.

The preliminary plan or tentative maps of the subdivision shall contain the following information:

(1) The name or title under which the proposed subdivision is to be recorded.

(2) The name and address of the record owner or subdivider.

(3) The location, width and approximate grade and radius of proposed and existing streets, alleys, highways and ways included in the plat; also, similar facts regarding the property contiguous or adjacent.

(4) The location of all existing features affecting the subdivision, such as railroads, buildings, trees, easements, ditches, watercourses, etc.

(5) The location and size of nearest available public sewers and water mains, existing or planned. Also, indication of the method of sewage disposal proposed.

(6) Location and approximate dimensions of lots, approximate radii of all curves and approximate location of all setback lines.

(7) Maps shall be drawn to show clearly all information, including date, and north point at a scale of not more than 200 feet to one inch.

(Code 2005,§34-23)

Sec. 34-24. Supplementary information.

The following information shall be filed with the tentative map:
Sufficient legal description to define the boundaries of the proposed tract.
A written statement or a zoning map indicating the proposed use of various parcels.
Proposed improvements and utilities to be installed.
Restrictions to be imposed upon plat after subdivision and special plans, if any.

(Code 2005,§34-24)

Sec. 34-25. Tentative map procedure.

(a) Property owners or subdividers desiring to record plats of subdivisions shall submit four identical copies of the tentative map to the city clerk.

(b) The city planning commission shall be allowed 45 days in which to prepare a written report and recommendations to the city council. The commission shall examine the plat as to its compliance with the laws, chapter 82, zoning, and other official plans of the city, the official street system and good engineering practice. The report and recommendation shall set forth the size and type of improvements necessary for public use and safety to be constructed by the

28 State law reference—Preliminary plats, MCL 560.111 et seq.
subdivider before acceptance of the final map. Also the type of sanitary facilities to be installed.

(c) The city council shall approve or disapprove the tentative map by the passage of a resolution. If the map is approved, the resolution so indicating shall state also the nature and character of the improvements that will be required to be made by the subdivider, based upon the recommendation of the city planning commission or as determined by the city council. The resolution shall also state the times at which the respective improvements must be completed, and shall contain any conditions relating thereto.

(d) No work shall be done by the subdivider on any land offered or to be offered for dedication until the city council shall have adopted said resolution approving the tentative map and determining the nature and character of the work and improvements to be required.

(e) Improvements, constructed pursuant to the requirements of the city council must be made in accordance with city specifications.

(Code 2005,§34-25)

Sec. 34-26. Survey.
Each subdivision shall, subsequent to the approval of the tentative map thereof, and prior to the filing with the city planning commission of the final map, be surveyed accurately in accordance with the tentative map and all alterations and changes required; except, however, in the case where the map is exclusively a reversion to acreage, such survey shall not be required.
The procedure and practice of all survey work done on such subdivision shall conform with the accepted standards of the engineering profession and the Land Division Act (MCL 560.101 et seq.).
(Code 2005,§34-26)

Secs. 34-27-34-41. Reserved.

29ARTICLE III. FINAL MAP*

Sec. 34-42. Required information.
Whenever said tentative map has been approved by the city planning commission, or whenever the subdivider has complied with the provisions of this chapter, and has made all the changes in said tentative map and in the subdivision shown thereon necessary to remove defects and objections indicated in the disapproval of such tentative map by the city planning commission, he shall within one year from the approval or return of such map by the city planning commission, submit to said commission a final map of such subdivision, together with the originally submitted tentative map.
(Code 2005,§34-42)

Sec. 34-43. Preparation.
The final map shall be drawn and prepared for submission in accordance with the regulation of the Land Division Act (MCL 560.101 et seq.) specifying the manner of drawing, survey; dedications and certifications; and shall contain the information as set forth in section 34-45.
(Code 2005,§34-43)
Sec. 34-44. Street names.

Approval of street names shall be secured from the city planning commission before printing the same on the map.
(Code 2005, §34-44)

Sec. 34-45. Certificates.

(a) No such final plat shall be accepted by the city council unless it first shall have been submitted to the city planning commission for its approval and recommendation, which approval and recommendation shall be endorsed thereon by the chairman and secretary.
(b) On all such final maps presented to the city council for approval, there shall be provided proper certificates for the city clerk to certify the approval of the map by the city council, and the acceptance on behalf of the public of all dedications shown thereon.
(Code 2005, §34-46)

Sec. 34-46. Procedure.

(a) Prior to the submission of the final map to the city council such final map and four copies thereof shall be submitted to the city clerk. Filed with such map shall be the name and address of a person to whom notice of hearing shall be sent.
(b) One copy of the final map and legal description thereto shall be referred to the city attorney for examination and approval. The city attorney shall examine the map for sufficiency of affidavits, legal descriptions and other checking to ensure compliance with applicable provisions of law.
(c) Two copies of the final map shall be referred to the city manager for examination and approval.
(d) The city planning commission shall examine the map for compliance with the tentative map and approve changes thereon. When the city planning commission is satisfied, from the study of the map and field inspection, that the subdivision complies with the provisions of this chapter and the state laws, it may, by majority vote, approve said map and recommend its adoption by the city council. The planning commission shall approve, modify or disapprove a plat within 60 days after submission thereof, except that an applicant may waive the requirement and consent to an extension.
(e) A hearing shall be afforded upon the plat before being finally acted upon by the city planning commission. Notice of such hearing shall be sent to the applicant by first class mail setting forth the time and place of such hearing not less than five days prior to the date fixed therefor. Similar notices shall be mailed to the owners of land immediately adjoining the platted land as their names appear upon the plat or upon the tax records of the city; provided, however, that any failure on the part of the city planning commission or the city council to give notice to adjoining property owners shall not affect the legality or validity of any action taken by the city planning commission or the city council.
(Code 2005, §34-46)

Sec. 34-47. Scope and conflict.

Except in cases of conflict with the Land Division Act (MCL 560.101 et seq.), the provisions of this Article shall apply to all subdivisions within the city including those subdivisions controlled by the Land Division Act.
(Code 2005, §34-47)
ARTICLE IV. IMPROVEMENTS AND REGULATIONS

Sec. 34-63. Improvements required.
Before acceptance of the final map and approval by the city council of a plat, the following improvements shall be provided and the city council shall be provided with a certified check or performance bond in an amount necessary to ensure compliance with this chapter and to secure completion of the required improvements. Sewer and water facilities shall be installed to serve each building before occupancy, and street construction and sidewalk construction shall be completed before final acceptance of the plat.
(Code 2005,§34-63)

Sec. 34-64. Lands dedicated.
All lands offered to the city for streets, highways, alleys or other public purposes or use, where no approval of the city planning commission has been secured, shall be referred to the city planning commission for a report and recommendations before being accepted by the city council.
(Code 2005,§34-64)

Sec. 34-65. Subdivisions vacated.
Upon receipt of notice by the city of court action to vacate any subdivision or part thereof, a copy of said notice shall be referred to the city planning commission, which shall review the conditions to determine the interest of the city and the necessity for, or desirability of, being present at the time the application to vacate is heard by the court.
(Code 2005,§34-65)

Sec. 34-66. Adjoining street systems.
(a) New subdivisions shall make provisions for the continuation of principal existing streets in adjoining or adjacent subdivisions insofar as they may be necessary for public requirements. In general, such streets shall be of a width as great as that of the streets so continued or projected. The centerline of such streets shall continue with the centerline of existing streets.
(b) In general, the streets shall extend to the boundary of the subdivision to provide the proper access to adjoining property and provide for proper connection with the highway system for contiguous land.
(c) Where the city planning commission has adopted a plan or plat of a neighborhood or area of which the subdivision is a part and the proposed plat provides coordination with the street system of the city different from that of said continuations or projections of existing streets and the subdivider's plat conforms to such neighborhood or area plat or plan of the city planning commission, the city planning commission may approve the subdivider's plat.
(d) Where the plat submitted covers only a part of the subdivider's tract, a sketch of a proposed future street system of the unsubmitted part shall be submitted in addition to each tentative map to be considered in the light of adjustments and connections with the street system of the part not submitted.
(Code 2005,§34-66)

Sec. 34-67. Access.
There shall be no reserve strips controlling access to streets, except where the control of such strips is definitely placed in the city under conditions approved by the city council.
The subdividing of the land shall be such as to provide each lot by means of either a public street or way or permanent easement with satisfactory access to an existing public highway or to a thoroughfare as shown on the official map, which public street, easement or way shall be graded and graveled and of a width of at least 25 feet. (Code 2005,§34-67)

Sec. 34-68. Easements.
Where alleys are not required, an easement of not less than five feet in width shall be provided at the rear of all lots. A variable easement adjusted to the needs of public necessity shall be provided along watercourses, and particularly in areas subject to periodic flooding. (Code 2005,§34-68)

Sec. 34-69. Streets and alleys.

(a) Residential street rights-of-way shall have a width of 66 feet, secondary street rights-of-way shall have a width of 80 feet, and primary street rights-of-way shall have a width of 100 feet. No street shall have a width between the curbs of less than 36 feet. Where approved, dead-end streets terminating in a cul-de-sac shall not exceed 600 feet in length, and the cul-de-sac shall have a 50-foot minimum radius on the property line and a 40-foot minimum radius of paved surface. Unless otherwise approved, the surface of all streets shall be bituminous concrete or concrete in accordance with city specifications.

(b) Whenever there already exists a dedicated and recorded half street or alley on an adjoining plat, the other half must be dedicated on the proposed plat to make the street or alley complete.

(c) If alleys are provided at the rear of residence lots, they shall be not less than 25 feet in width.

(d) Intersections of streets shall be at an angle of 90 degrees or as close to such an angle as practical, but in no case less than 30 degrees. Termination of streets at intersections shall be clearly defined.

(e) Alleys intersecting other alleys or streets shall be increased in width at the intersection in conformity with city standards.

(f) Block corners shall be cut off or rounded.

(g) Streets shall be so arranged that as far as possible grades shall be not less than one-half of one percent.

(h) Center line radii of a major street shall be in general not less than 500 feet.

(i) Center line radii of local streets shall not be less than 100 feet.

(j) Reverse curves on major and local streets shall be separated by a tangent of not less than 100 feet.

(k) Curbing shall be required in all cases and shall be not less than 24 inches in width. (Code 2005,§34-69)

Sec. 34-70. Blocks.
(a) Streets shall be platted a distance apart to allow for a block width sufficient for two tiers of lots.

(b) No block shall be longer than 1,200 feet between street lines, except where, in the opinion of the planning commission, extraordinary conditions prevail, a greater distance between street lines may be permitted or required by the planning commission.  
(Code 2005, §34-70)

Sec. 34-71. Lots.

(a) Facing. All lots shall face upon a public street.

(b) Side lines. The side lines of lots shall be approximately at right angles or radial to the street upon which the lots face.

(c) Width. All residential lots shall have a width of not less than 70 feet except those lots located at the end of a dead-end street or loop, may have a minimum width at the front line of not less than 25 feet, provided the average width of such lots is not less than 50 feet at the building line.

(d) Area. The area of all residential lots shall conform to the requirements of the zoning chapter for the zone in which the plat is located.

(e) Sidewalks. Lots having a width in excess of 90 feet may require sidewalks; in all other cases, sidewalks shall be required. Where required, sidewalks shall be a minimum of four feet in width, four inches thick, and constructed of 5½-bag mix.

(f) Corner lots. Corner lots shall be of sufficient width to allow conformance with building lines.

(g) Larger than normal lots. In case a tract is subdivided into larger parcels than normal building lots, such parcels shall be arranged to allow for the opening of future streets and logical subdivision.  
(Code 2005, §34-71)

Sec. 34-72. Lot division.

The division of a lot in a recorded plat is prohibited, unless approved following application to the city council. The application shall be filed with the city clerk and shall state the reasons for the proposed division. The city council may request review and comment by the city planning commission. The division, to be approved by the city council shall have the suitability of the land for building purposes approved by the county health department. No building permit shall be issued, or any building construction commenced, prior to the city council's approval. No lot in a recorded plat shall be divided into more than four parts and the resulting lots shall be not less in area than permitted by chapter 82, zoning. The division of a lot resulting in a smaller area than prescribed herein may be permitted but only for the purpose of adding to the existing building site or sites. The application shall so state and shall be in affidavit form.  
(Ord. No. 192, 3-21-1988))

Sec. 34-73. Topography.

In general, streets shall have appropriate regard to watercourses and other topographical features.  
(Code 2005, §34-73)
Sec. 34-74. Street lighting and utilities.

Street lighting shall be required on all residential, secondary and primary streets, and the city superintendent shall approve the type, size and spacing of the street lighting. Sanitary sewer mains and city water mains shall be not less than eight inches in diameter; storm sewers shall be provided adequate to carry off all surface drainage and shall meet the approval of the city superintendent. No storm water shall be discharged into the sanitary sewers. Utility wiring for telephone and electrical power to be installed underground according to rules and regulations promulgated pursuant to section 1-9 of this Code.
(Code 2005, §34-74)

Sec. 34-75. Railroads.

Where subdivisions are adjacent to a railroad, a parallel street shall border the railroad at a sufficient distance to make possible a grade separation if necessary, and serve as an interceptor street for minor streets and form a barrier strip of land along the railroad, desirably used in residential districts as a park, but used for business and industrial structures in appropriate districts if needed for these purposes.
(Code 2005, §34-75)

Sec. 34-76. School and recreation area sites.

Due consideration shall be given by the subdivider and the city planning commission to the provision of sites for future school, park, recreation area and other open spaces.
(Code 2005, §34-76)

Sec. 34-77. Appeal or suspension of rules.

A suspension of any requirement of this chapter, except the requirement on improvements, may be granted by the city council in a particular case after obtaining the recommendation of the city planning commission. Application for such suspension must show that there are special circumstances or conditions affecting the property in question; also, that such suspension is necessary for the preservation and enjoyment of a substantial property right of the applicant; also, that such suspension, if granted, will not be materially detrimental to the public welfare or injurious to other property in the territory.
(Code 2005, §34-77)

Sec. 34-78. Variances.

A variance from the provisions of this chapter may be granted as follows:

(1) Circumstances or conditions for granting. If the proprietor can clearly demonstrate that literal enforcement of the terms of this chapter is impractical, or will impose undue hardship in the use of his land because of peculiar conditions pertaining to his land, the city council may permit such variance or variances as in its sound discretion, it finds reasonable and within the general policy and purpose of this chapter. Provided that no variance shall be granted unless the city council finds that:

a. There are special circumstances or conditions affecting said property such that the strict application of the provisions of this chapter would deprive the proprietor of the reasonable use of his land.
b. The variance is necessary for the preservation and enjoyment of a substantial property right of the proprietor.
c. The granting of the variance will not be detrimental to the public welfare or be injurious to property in the area in which said property is situated.

(2) Approval with conditions. The city council may, in granting approval of variances, require such conditions as will in its judgment secure substantially the objectives of the requirements so varied or modified.

(3) Procedure. A petition for any such variance shall be submitted in writing by the proprietor at the time the preliminary plat is filed for consideration by the planning commission. This petition shall fully state the grounds for such variance.
(Code 2005,§34-78)
RESOLUTION #05062013-1 ADOPTING POLICY RE: COMBINING PLATTED LOTS FOR BUILDING PURPOSES

WHEREAS, the City Council wishes to establish a policy directing City officials and residents of the City as to the requirements for combining platted lots for building purposes and tax billing purposes; and

WHEREAS, the City Council wishes to establish the following policy for the health, safety and welfare of the City and its residents;

NOW, THEREFORE, BE IT HEREBY RESOLVED:

   The City Assessor, Clerk and Treasurer are hereby directed, if requested by the owner, to combine two or more contiguous platted lots into one tax bill and treat the lots as one for all taxing purposes. Combining two or more contiguous platted lots for tax billing purposes shall not be deemed a combination for building purposes.

2. Combining Contiguous Platted Lots for Building Purposes.
   Any proposed combining of contiguous platted lots for building purposes shall first submitted to the Planning Commission for review and recommendation to the City Council. All combinings of contiguous platted lots must be approved by the City Council. Combinings shall be generally permitted unless the proposed combining results in or may result in a violation of law or Ordinance.

   The City of Galesburg, its officials and representatives, shall recognize the combining of two or more contiguous platted lots for building purposes and shall issue building and other permits required only if all of the following requirements have been met:
   a. The lots to be combined are platted and contiguous to each other.
   b. The combining is approved by the City Council.
   c. A Deed combining the lots is prepared and recorded at the sole expense of the owner (The City will not prepare or record any Deeds, and a recorded copy provided to the City Clerk.)

   d. The Deed provides that once the lots are combined for building purposes, they may not be separated subsequently (This paragraph removed 5/6/2013 by Council vote).

3. Permits for Combined Lot Without City Council Approval.
   No building or other permit shall be granted for a combined lot without City Council approval and compliance with the requirements set forth herein.

PASSED, ADOPTED AND APPROVED this 7th day of July, 2003.

Diana Skidmore
City Clerk
Chapter 38
LIBRARY

Sec. 38-1. Maintained pursuant to state law.
Sec. 38-2. Library board.
Sec. 38-3. Rules and regulations.
Sec. 38-4. Maliciously injuring or mutilating library books.
Sec. 38-5. Donations.
Sec. 38-6. Expenditures.

State law reference—Municipal libraries, MCL 397.201 et seq.
CHAPTER 38  
LIBRARY  

Sec. 38-1. Maintained pursuant to state law.  
The city public library and reading room, heretofore established, shall be maintained for the use and benefit of the inhabitants of said city in accordance with and having all rights, powers, and duties as set forth in Public Act No. 164 of 1877 (MCL 397.201 et seq.).  
(Code 2005, §38-1)  

Sec. 38-2. Library board.  

(a) Members; appointment. The mayor shall, with the approval of the city council, appoint a board of five directors for said library, chosen from the citizens at large, with reference to their fitness for such office and not more than one member of the city council shall be at any one time a member of said board.  

(b) Terms of office. In the first instance one director shall be appointed for a term of five years, one director shall be appointed for a term of four years, one director shall be appointed for a term of three years, one director shall be appointed for a term of two years, one director shall be appointed for a term of one year, and annually thereafter the mayor shall appoint one member of such board of directors for a term of five years. The mayor may, by and with the consent of the city council, remove any director for misconduct or neglect of duty.  

(c) Vacancies; compensation. Vacancies in the board of directors occasioned by removals, resignations or otherwise shall be reported to the city council and shall be filled in like manner as original appointments, and no director shall receive a compensation as such.  

(d) Organization of board. The said directors shall immediately after the annual appointment meet and organize, by the election of one of their number as president and by the election of such other officers as they may deem necessary. They shall make and adopt such by-laws, rules, and regulations for their own guidance and for the government of the library and reading room as may be expedient not inconsistent with this chapter. They shall have the exclusive control of the expenditure of all monies collected to the credit of the library fund and of the construction of any library building and of the supervision, care and custody of the grounds, rooms or buildings constructed, leased or set apart for that purpose. Provided, that all monies received for such library shall be deposited in the treasury of the city to the library fund, and shall be kept separate and apart from other monies of the city and drawn upon by the proper officers of the city, upon properly authenticated vouchers of the library board. Said board shall have the power to purchase or lease grounds to occupy, lease or erect an appropriate building or buildings for the use of said library; shall have power to appoint a suitable librarian and necessary assistant and fix their compensation; and shall also have power to remove such appointees, and shall, in general, carry out the spirit and intent of this chapter in establishing and maintaining a public library and reading room.  

(e) Report to council. The board of directors shall make at the end of each and every fiscal year hereafter, a report to the city council, stating the condition of their trust at the date of such report, the various sums of money received from the library fund and from other sources, and how such the number added by purchase, gift or otherwise during the year; the number lost or missing; the number of visitors attending; the number of books loaned out and the general character and kind of such books; with such other statistics, information and suggestions as they may deem of general interest. All such portions of said report, as it relates to the receipt and expenditures of money, as well as the number of books on hand, books lost or missing, and books purchased, shall be verified by affidavit.
Sec. 38-3. Rules and regulations.

The library and reading room established under this chapter shall be forever free to the use of the inhabitants of the city always subject to such reasonable rules and regulations as the library board may adopt; and said board may exclude from the use of said library and reading room any and all persons who shall willfully violate such rules.

Sec. 38-4. Maliciously injuring or mutilating library books.

Any person who shall willfully, maliciously or wantonly tear, deface or mutilate or write upon, or by other means injure or mar any book, pamphlet, map, chart, painting, picture, photograph, periodical, newspaper, magazine, manuscript or exhibit or any part thereof belonging to or loaned to any public library, or to the library of any literary, scientific, historical or library society or association, whether incorporated or unincorporated, shall be guilty of a misdemeanor.

Sec. 38-5. Donations.

Any person desiring to make donations of money, personal property, or real estate for the benefit of such library, shall have the right to vest the title to the money or real estate so donated in the board of directors created under this chapter to be held and controlled by such board when accepted according to the terms of the deed, gift, devise or bequest of such property; and as to such property, the board shall be held and considered to be special trustees.

Sec. 38-6. Expenditures.

The library board shall not expend more funds than they have on hand and shall make no expenditures without first obtaining the approval of the city council. Any agreement entered into requiring expenditures shall be null and void unless approved by the city council.

State law reference-Similar provisions, MCL 750.391

State law reference-Similar provisions, MCL 397.209
CHAPTER 42

MANUFACTURED HOUSING AND TRAILERS*

Sec. 42-1. Establishment.
Sec. 42-2. State regulations.

*State law reference-Mobile Home Commission Act, MCL 125.2301 et seq.
CHAPTER 42

MANUFACTURED HOUSING AND TRAILERS

Sec. 42-1. Establishment.

Mobile home parks may be established only in accordance with chapter 82, zoning, of this Code. (Code 2005,§42-1)

Sec. 42-2. State regulations.

The construction and operation of mobile home parks shall conform to the Michigan Administrative Code R.125.1101 through R.125.3069, which Code is hereby adopted by reference. Any violation of said mobile home code shall be punishable as a violation of the city Code. (Code 2005,§42-2)

Chapter 46
OFFENSES AND MISCELLANEOUS PROVISIONS

ARTICLE I In General
Secs. 46-1-46-15. Reserved

ARTICLE II. Abandoned Refrigerators
Sec. 46-16. Removal of locking device required.
Sec. 46-17. Lock removal.

ARTICLE III ORDINANCE 251—effective October 30, 2008
Municipal Civil Infractions; To Establish Appropriate Civil Sanctions; To Establish the Galesburg City Ordinance Violation Bureau; To Authorize City Procedures for Processing Civil Infraction Citations; To Amend Certain Ordinances; To Provide for Severability and Repeal of Ordinances Inconsistent Herewith and To Set Effective Date
Secs. 46-18-46-20 Reserved
Sec. 46-21. Definitions
Sec. 46-22. Establishment of Galesburg City Civil Infraction Violations Bureau
Sec. 46-23. Violation Notice; Payment at Municipal Ordinance Violations Bureau
Sec. 46-24. Service of Municipal Civil Infraction Violation Notice
Sec. 46-25. Grounds for Issuance of Violation Notice or Court Citation
Sec. 46-26. Municipal Civil Infraction Violations Notice Unresolved; Issuance of Court Citation; Service by First-Class Mail
Sec. 46-27. Appearance Tickets
Sec. 46-28. Failure to Respond to Court Citation; Criminal Sanctions
Sec. 46-29. Bureau Schedule of Fines
Sec. 46-30. Sanctions for Civil Infraction Court Citation
Sec. 46-31. Remedies Not Exclusive Amendment of Ordinances
Sec. 46-32. Amendment to Ordinances
Sec. 46-33-46-34 Reserved

ARTICLE IV (ORDINANCE 265)
An Ordinance to designate violations of the State Construction Code and the various nationally recognized codes adopted pursuant thereto as adopted and enforced by City of Galesburg, Kalamazoo County, Michigan as municipal civil infractions; to provide sanctions for violation(s) thereof; and to repeal all Ordinances or parts of Ordinances in conflict herewith
Sec. 46-35. Purpose
Sec. 46-36. Violation
Sec. 46-37. Designation as Municipal Civil Infraction
Sec. 46-38. Penalties violation of this ordinance.
Sec. 46-39. Severability
Sec. 46-40 Repeal of Conflicting Ordinances

35 State law reference—MCL 41.183, 42.21, 66.2, 78.25A, 117.41 Municipal civil infractions.
ARTICLE V (ORDINANCE 252)
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Any person who knowingly leaves, in a place accessible to children, any abandoned, unattended or discarded icebox, refrigerator or other container of a kind and size sufficient to permit the entrapment and suffocation of a child therein, without first removing the snaplock or other locking device from the lid or cover thereof, is guilty of a misdemeanor.
(Code 2005,§46-16)

Sec. 46-17. Lock removal.

It shall be unlawful for any person to leave in a place accessible to children any abandoned, unattended or discarded icebox, refrigerator or any other container of any kind which has an airtight snap-lock or other device thereon without first removing the said snap-lock or doors from said icebox, refrigerator or container.
(Code 2005,§46-17)

Sections 46-18 to 46-20 are hereby reserved

37 Article III Municipal Civil Infractions (Ordinance 251; effect 10/30/2008)

Sec. 46-21. Definitions.

The following terms, as used in this Ordinance, shall have the meanings herein ascribed to them:

Bureau shall mean the Municipal Ordinance Violations following section. Bureau established in the Citation or Court Citation means a written complaint or notice prepared by an authorized person directing a person to appear in court regarding the occurrence or existence of a municipal civil infraction.

Citation or Court Citation means a written complaint or notice prepared by an authorized person directing a person to appear in Court regarding the occurrence or existence of a municipal civil infraction.

Municipal Civil infraction shall mean a violation of a provision of this Ordinance for which the remedy and/or penalty is prescribed to be a civil fine or other sanction other an a criminal penalty. A municipal civil infraction is not a lesser-included offense of a criminal offense or of an ordinance violation that is not a civil infraction.

37 State law references—Municipal civil infractions. MCL 41.183, 42.21, 66.2, 78.25a, 117.41
Municipal Civil Infraction Determination shall mean a determination that a Defendant is responsible for a municipal civil infraction by one of the following:

(a) An admission of responsibility for the municipal civil infraction.
(b) An admission of responsibility for the municipal civil infraction, "with explanation".
(c) A preponderance of the evidence at an informal hearing or formal hearing.
(d) A Default Judgment for failing to appear at a scheduled appearance.

Municipal Civil Infraction Violation Notice shall mean a written notice prepared by an authorized official, directing a person to appear at the City Ordinance Violations Bureau for the purpose of paying a civil fine and/or cost for a violation which is prescribed to be a municipal civil infraction.

Person means a natural person, or the principal, officer, director, partner or agent of any other entity, wherein he or she acted in bringing about a violation or municipal infraction.

Repeat Offense shall mean a determination of responsibility for second or any subsequent municipal civil infraction with regard to the same code-provisions committed by the same person.

Responsible or Responsibility shall mean a voluntary admission or determination entered by a Court or Magistrate that a person is in violation of a provision of this Ordinance prescribed to be a municipal civil infraction.

Violation shall mean any act which is prohibited or made or declared to be unlawful or an offense under this Ordinance, including affirmative acts as well as omissions and/or failure to act where the act is required by this Ordinance.

Zoning Violation means any violation or municipal civil infraction of the Sections of the City Code adopted pursuant to the City Zoning Act, Act 184 of the Public Acts of 1943, as amended. A zoning violation is declared a nuisance per se in accordance with Section 24 of the Act.

Ord. No. 251, effective 10/30/2008

Sec. 46-22. Establishment of Galesburg City Civil Bureau.

The Galesburg City Civil Infraction Violations Bureau is hereby established for the purpose of accepting admissions of responsibility for municipal civil infractions in response to municipal civil infraction violation notices. Payments made to the bureau shall be retained and accounted for as fines and costs, and shall be deposited in the general fund of the City.

Payments made to the bureau shall be retained and accounted for as fines and costs and shall be deposited in the general fund of the City.

The Bureau shall be located in the office of the City Clerk and shall be under the supervision and control of the City Clerk and Mayor, subject to the review of the City Council.

The fines and costs shall be in an amount in accordance with the schedule thereof for each offense in accordance with Section 10 herein or in accordance with amendments thereto as established by the City Council Resolution. The Bureau is not authorized to alter the amount of the fines and costs or to adjudicate the violation in any way.

Ord. No. 251, effective 10/30/2008
Sec. 46-23. Violation notice; Payment at Municipal Ordinance Violations Bureau

Prior to the issuance of a court citation, authorized local officials may issue a violation notice for the commission of a civil infraction to any person responsible therefor under the "Jaw. The violation notice form shall be approved by the State Court Administrator within the time allowed on the Notice of Civil Infraction, the person or entity designated as reasonable therefore may avoid the issuance of Ordinance continued: court citation by the acknowledgment of responsibility on the Notice, together with payment of the fines and costs, as prescribed on the established scheduled of fines and costs, at the Galesburg City Civil Infraction Violations Bureau, in person or by mail.

Failure to pay the fines and costs within the time allowed on the notice may result in a court citation being filed pursuant to MCL 600.8707 and Section 8.
(Ord. No. 251, effective 10/30/2008)

Sec. 46-24. Service of Municipal Civil Infraction Violation Notice.

a. Except as provided in subparagraph(b) below, an authorized official shall personally serve a copy of the Municipal Civil Infraction Violation Notice upon an alleged violator.

b. In a municipal civil infraction involving the use or occupancy of land or a building or other structure, a copy of the Municipal Civil Infraction Violation Notice need not be personally served upon the alleged violator but may be served upon the owner or occupant of the land, building or structure by posting the copy on the land or attaching the copy to the building or structure. In addition, a copy of the Notice shall be sent by first-class mail to the owner of the land, building or structure at the owner's last known address.
(Ord. No. 251, effective 10/30/2008)

Sec. 46-25. Grounds for issuance of Violation Notice or Court Citation.

The basis for issuance of a Municipal Civil Infraction Notice or Court Citation shall be as set forth below, as the case may be:

a. An authorized official who witnesses a person violate an Ordinance, the violation of which is a municipal civil infraction, shall prepare and subscribe, as soon as possible and as completely as possible, an original and three (3) copies of a citation unless such official issues a Municipal Civil Infraction Violation Notice.

b. An authorized official may issue a violation notice or a citation to a person if, based upon investigation, the official has reasonable cause to believe that a person is responsible for a municipal civil infraction.

c. An authorized official may issue a violation notice or a citation to a person if, based upon investigation of a complaint by someone who allegedly witnessed the person violate an Ordinance, a violation of which is a municipal civil infraction, the official has reasonable cause to believe that the person is responsible for a municipal civil infraction and if the attorney for the City for whom the authorized local officer is acting approves in writing the issuance of the citation.
(Ord. No. 251, effective 10/30/2008)

Sec. 46-26. Municipal Civil Infraction Violations Notice Unresolved; Issuance of Court Citation; Service by First-Class Mail.
In the event a person elects not to admit responsibility and pay the specified civil fine and costs prescribed for the respective violation, a municipal civil infraction citation may be filed with the District Court, in which case a copy of the citation shall be served by first-class mail upon the person charged with the municipal civil infraction at such person's last known address. The citation filed with the Court shall consist of a sworn complaint containing the allegations stated in the Municipal Ordinance Violation Notice and shall fairly inform the Defendant how to respond to the citation. The citation shall comply with MCL 600.8707. The citation or complaint may contain a request by the Code Officer or attorney issuing it to the Court that, upon the entry of a not responsible plea, the matter shall be set for a formal hearing. Without such designation by the Code Officer, the Defendant shall have the option of an informal or formal hearing.  
(Ord. No. 251, effective 10/30/2008)

Sec. 46-27. Appearance Tickets.

a. Officers, employees and other individuals employed by and in the service of the City who are authorized by state law and/or the provisions of the Ordinances of the City to enforce the provisions of such Ordinances, including, but not limited to, the Zoning and Ordinance Enforcement Officers, Building Inspector, Fire Inspector, Fire Officer, Firefighters and their assistants, are hereby specifically authorized in accordance with state law, including MCL 764.9 et seq. MSA 28.868(3) et seq. to-issues and serve upon a person-an-appearance-ticket if the officer, employee or other individual employed by or in the service of the City has reasonable cause to believe that the person has committed a violation of the provisions of the Ordinances of the City or state law, except where the issuance of such an appearance ticket is expressly prohibited by the provisions of the Ordinances or applicable state law.

b. An appearance ticket, as used above, means a complaint or written notice issued and subscribed by a police officer or other officer, employee or individual employed by or in the service of the City who is by law or Ordinance authorized to issue it, directing a designated person to appear in the designated local criminal court at a designated future time in connection with his alleged infraction. The appearance ticket shall be numbered consecutively, be in such form as determined by the Attorney General, the State Court Administrator and the Director of the Department of State Police and shall consist of the following parts:

1. The original, which shall be a complaint or notice to appear by the officer, employee or other individual filed with the Court.
2. The first copy, which shall be an abstract of court records.
3. The second copy, which shall be retained by the appropriate local enforcement agency.
4. The third copy, which shall be delivered to the alleged violator.

With the prior approval of such state officials, the appearance ticket may be appropriately modified as to content or number of copies to accommodate the law enforcement agency and local Court procedures and practices.  
(Ord. No. 251, effective 10/30/2008)

Sec. 46-28. Failure to Respond to Court Citation; Criminal Sanctions.

In the event a person fails to appear and respond to a court citation issued herein, such person shall be deemed to have admitted responsibility and Default Judgment shall be entered, in accordance with Sections 10, 11 and 12 of this Ordinance. The issuance of a Default Judgment for failure to appear before the court for a civil infraction court citation shall be in accordance with the procedures set forth by law and this Ordinance.  
(Ord. No. 251, effective 10/30/2008)
Sec. 46-29. Bureau Schedule of Fines.

The Galesburg City Council, from time-to-time by Resolution, shall adopt a schedule of fines for an admission of responsibility to a municipal civil infraction.
(Ord. No. 251, effective 10/30/2008)

Sec. 46-30. Sanctions for Civil Infraction Court Citation.

a. Determination of responsibility or responsibility with explanation. Upon being found responsible or responsible with explanation, the District Court or other Court of competent jurisdiction shall order the Defendant to pay a civil fine as set forth in Section 1-10 above, Court costs of not less than $25.00 nor more than $500.00, plus the City's actual costs of enforcement and litigation including, but not limited to, subpoena fees, costs of City Officials having to appear at hearings and actual attorney's fees and expenses incurred.
(Ord. No. 251, effective 10/30/2008)

Sec. 46-31. Remedies Not Exclusive.

In addition to any remedies provided by this Ordinance, the City may seek additional relief under all other provisions of law or equity, including remediating the infraction and placing the cost of remediation on the tax bill, obtaining injunctions to abate Code violations and the issuance of Compliance Orders.
(Ord. No. 251, effective 10/30/2008)

Sec. 46-32. Amendment of Ordinances.

The following Sections of the Galesburg City Code of Ordinances shall be amended to read: "Violation of this Chapter or Article shall be a municipal civil infraction."

Section____________________
Section____________________
Section____________________
Section____________________
Section____________________
Section____________________
Section____________________
Section____________________
Section____________________
Section____________________
Section____________________

Any and all sections, terms, provisions and/or clauses herein shall be deemed independent and severable. Should any court or competent jurisdiction hold any section, term, provision or clause void and/or invalid, all remaining sections, terms, provisions and/or clauses not held void and/or invalid shall continue in force and effect.
(Ord. No. 251, effective 10/30/2008)
Adopted March 14, 2016; Effective April 30, 2016

An Ordinance to designate violations of the State Construction Code and the various nationally recognized codes adopted pursuant thereto as adopted and enforced by City of Galesburg, Kalamazoo County, Michigan as municipal civil infractions; to provide sanctions for violation(s) thereof; and to repeal all Ordinances or parts of Ordinances in conflict herewith.

Sec. 46-35. Purpose
Pursuant to the provisions of the Single State Construction Code Act, being Act 230 of the Public Acts of 1972, as amended, the City of Galesburg has assumed responsibility for the administration and enforcement of the State Construction Code and the nationally recognized codes which comprise the same as incorporated by reference or pursuant to an administrative rule adopted thereunder. The purpose of this Ordinance is to designate violation of the State Construction Code and the nationally recognized codes comprising the same as municipal civil infractions as permitted by MCL 125.1523(3), as amended.
(Ord. No. 265, effective April 30, 2016)

Sec. 46-36. Violation
Any violation of the State Construction Code; of any of the nationally recognized codes incorporated into the State Construction Code; or of any nationally recognized Code adopted by the State of Michigan via administrative rule pursuant to the State Construction Code together with amendments, additions, or deletions as determined appropriate by the State of Michigan; or any part of the same shall be deemed to constitute a municipal civil infraction as authorized by 1972 PA 2003, being MCL 125.1523(3).
(Ord. No. 265, effective April 30, 2016)

Sec. 46-37. Designation as Municipal Civil Infraction
The City of Galesburg as the administering and enforcing agency for 1972 PA 230 hereby designates violations of the State Construction Code; of any of the nationally recognized codes incorporated into the State Construction Code; or of any nationally recognized code adopted by the State of Michigan via administrative rule pursuant to the State Construction Code together with amendments, additions, or deletions as determined appropriate by the State of Michigan municipal civil infractions as authorized by 1972 PA 230, as amended, being MCL 125.1523(3).
(Ord. No. 265, effective April 30, 2016)

Sec. 46-38. Penalties
The City of Galesburg, as the administering and enforcing agency for 1972 PA 230, as amended, hereby sets forth penalties for violation of the State Construction Code; of any of the nationally recognized codes incorporated into the State Construction Code; or of any nationally recognized Codes adopted by the State of Michigan via administrative rule pursuant to the State Construction Code together with amendments, additions, or deletions as determined appropriate by the State of Michigan; by amending the respective “penalty” provision in each as follows:
"Any person, firm, association, partnership, corporation or governmental entity that violates any of the provisions of this Ordinance shall be deemed to be responsible for a municipal civil infraction as defined by Michigan Statute which shall be punishable by a civil fine determined in accordance with the following schedule:

<table>
<thead>
<tr>
<th>Minimum Fine</th>
<th>Maximum Fine</th>
</tr>
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<tbody>
<tr>
<td>-1st Offense $125.00</td>
<td>$500.00</td>
</tr>
<tr>
<td>-2nd Offense $275.00</td>
<td>$500.00</td>
</tr>
<tr>
<td>-3rd Offense $350.00</td>
<td>$500.00</td>
</tr>
<tr>
<td>-4th or More Offense $500.00</td>
<td>$500.00</td>
</tr>
</tbody>
</table>

*within 3-year period determined on the basis of the date of commission of the offense(s)."

Additionally, the violator shall pay costs which may include all expenses, direct and indirect, which City of Galesburg City has incurred in connection with the municipal civil infraction. In no case, however, shall costs of less than $9.00 or more than $500 be ordered. In addition the City shall have the right to proceed in any court of competent jurisdiction for the purpose of obtaining an injunction, restraining order, compliance order or other appropriate remedy to compel compliance with this ordinance. Each day that a violation of this ordinance exists shall constitute a separate violation of this ordinance."

(Ord. No. 265, effective April 30, 2016)

Sec. 46-39. Severability

Should any section, clause or provision of this Ordinance be declared to be invalid by a court of competent jurisdiction, the same shall not affect the validity of the Ordinance as a whole or any other part thereof other than the parts so declared to be invalid.

(Ord. No. 265, effective April 30, 2016)

Sec. 46-40 Repeal of Conflicting Ordinances

All Ordinances or parts of Ordinances in conflict herewith are hereby repealed. Any proceedings pending, including prosecutions for violations, under any previous ordinance provision being repealed hereby shall not be affected by this Ordinance and may be continued pursuant to said previous Ordinance provisions.

(Ord. No. 265, effective April 30, 2016)

Article V (ORDINANCE 252)

Promote and Protect the Health, Safety and Welfare of the Residents and Property Owners of the City of Galesburg by Regulating, Preventing, Reducing or Eliminating Blight, Blighting Factors or Causes of Blight Within the City of Galesburg; To Provide for the Enforcement thereof; To make Violation Thereof a Municipal Civil Infraction; To Repeal All Other Ordinances or Parts Therein Inconsistent or Contrary to This Ordinance

Sec. 46-41. Definitions

Junk Automobile shall include any motor vehicle which is not licensed for use upon the highways of the State of Michigan, and shall also include, whether licensed or not, any motor vehicle which is inoperable or does not have all its main component parts attached).
Building Materials shall include lumber, bricks, concrete, cinder blocks, plumbing materials, electrical wiring or equipment, heating ducts or equipment; shingles, mortar, concrete or cement, nails, screws or any other materials used in constructing any structure.

Junk, Trash, Rubbish, or Refuse of Any Kind shall include without limitations, motorized or unmotorized vehicles, metal, iron, steel, cooper, brass, zinc, tin, lead, rope, rubber, rags, clothing, wood, plastic, paper, glass, garbage, appliances, mobile homes not meeting the minimum standards for inhabitation by humans, unusable trailers, pick-up truck caps/covers, televisions, furniture, or any other scrap or waste material of any kind, including parts of any of the above, but not including domestic refuse stored in such a manner as not to create a nuisance for a period not exceeding thirty (30) days, and not including firewood stored in an orderly fashion.

(Ord. No. 252, effective 10/30/2008)

Sec. 46-42. Prohibition Against Public Nuisances.

No person, firm or corporation owning, occupying or in control of any real property, public or private, within the City of Galesburg shall allow, permit or suffer a public nuisance as hereinafter declared, to arise or remain on n:s real property.

(Ord. No. 252, effective 10/30/2008)

Sec. 46-43. Nuisance Declared.

The following are declared to be public nuisances:

a. The parking or storage of junk automobiles and unlicensed trailers and similar items outside a wholly enclosed building for a period in excess of ten (10) days within any calendar year. This Subsection shall not apply to any property having a valid junkyard/salvage yard permit issued by the City or the State of Michigan.

b. The keeping or storage of "building materials" outside a wholly enclosed building for a period of in excess of thirty (30) days within any calendar year. This Subsection shall not apply to open air businesses permitted by the Galesburg City Zoning Ordinance or a site under construction for which a valid building permit has been issued where said materials are intended for use in the building being constructed.

c. The keeping or storage of "junk, trash, rubbish or refuse of any kind" outside a wholly enclosed building for a period in excess of thirty (30) days within any calendar year. This Subsection shall not apply to any property having a valid junkyard/salvage yard permit issued by the City or the State of Michigan.

d. Any occupied or unoccupied structure which has been destroyed, damaged or deteriorated that is no longer habitable as a dwelling or is not in compliance with Galesburg City Ordinances or State- law.

f. Any unfilled basements, excavations or holes that may be attractive and dangerous to children unless the property is completely fenced or otherwise protected against entry.

g. Unused, inoperable or abandoned recreational vehicles, equipment machinery or appliances outside a wholly enclosed building.

h. The keeping or storage of furniture designed for indoor use outside, including on a porch that is not completely enclosed. This Subsection shall not apply to furniture designed for outdoor use provided it is complete and usable as such.

(Ord. No. 252, effective 10/30/2008)
Sec. 46-44. Enforcement.

Except in the case of an emergency as determined by the City Council, or in the case of grass or vegetation in excess of 10 inches high, before a citation for violation of this Ordinance is issued, the owner or occupant of the property in violation of this Ordinance, shall be given written notice of the violation and the opportunity to abate the nuisance within thirty (30) days of the date of the notice. In the case of grass or vegetation in excess of 10 inches high, the owner or occupant shall be given 48 hours to abate the nuisance. Notice may be served in person or by first-class mail.

(Ord. No. 252, effective 10/30/2008)

Sec. 46-45. Violation as Municipal Civil Infraction.

A person who violates any of the provisions of this Article shall be deemed guilty of a municipal civil infraction punishable in accordance with Section 1-7.

(Ord. No. 252, effective 10/30/2008)

Sec. 46-46. Reserved.

ARTICLE VI. (Sections of ORDINANCE 254-Adopted March 17, 2009)38

AN ORDINANCE TO SET CURFEWS FOR MINORS; TO DEFINE DISORDERLY PERSONS AND PROHIBIT SUCH CONDUCT; TO PROHIBIT THE DISCHARGE OF FIREARMS WITHIN THE CITY, TO DEFINE AND REGULATE PEDDLERS, SOLICITORS, TRANSIENT MERCHANTS, AUCTIONS AND RESIDENTIAL SALES; TO PROHIBIT STREET PARKING IN CERTAIN CIRCUMSTANCES; TO PROHIBIT PARKING IN FRONT YARDS OF RESIDENCES, EXCEPT IN DRIVEWAYS; TO MAKE VIOLATIONS OF THESE PROVISIONS CIVIL INFRACTIONS; AND TO REPEAL ALL OTHER ORDINANCES OR PARTS THEREIN INCONSISTENT OR CONTRARY TO THIS ORDINANCE; AND TO PROVIDE FOR AN EFFECTIVE DATE FOR THIS ORDINANCE.

Article I. Curfew

Sec. 46-47. Curfew for Minors Under Age 12.

No minor under the age of 12 years shall loiter, idle or congregate in or on any public street, highway, alley or park between the hours of 10:00 p.m. and 6:00 a.m. unless the minor is accompanied by a parent or guardian, or some adult delegated by the parent or guardian to accompany the child.

(Ord. No. 254, effective 3/17/2009)


A minor under the age of 16 years AGED 16 YEARS OR UNDER shall not loiter, idle or congregate in or on any public street, highway, alley or park between the hours of 12:00 midnight and 6:00 a.m., except where the minor is accompanied by a parent or guardian, or an adult delegated by the parent or guardian to accompany the minor, or when the minor is upon an errand or other legitimate business directed by the parent or guardian.

38 State law reference—Firearms and ammunition. MCL 123.1101 et seq.
Sec. 46-49. Penalty.

Violation of Sections 46-47 and 46-48 shall be a civil infraction punishable as prescribed in this Code.

Sec. 46-50. Aiding Underage Children to Violate Curfew.

Any person of the age of 16 years or over assisting, aiding, abetting, allowing, permitting or encouraging any minor under the age of 16 to violate, Section 46-47 or 46-48 of this Ordinance is guilty of a civil infraction.

Article II. Disorderly Persons

Sec. 46-51. Definition.

The term “public place”, as used in this Chapter, shall mean any street, alley, park, public building, any place of business or assembly open to or frequented by the public and any other place which is open to the public view or hearing, or to which the public has access.

Sec. 46-52. “Disorderly Person” Defined.

A person is a disorderly person if the person is any of the following:

1. A person of sufficient ability who refuses or neglects to support his or her family.

2. A common prostitute.

3. A window peeper.

4. A person who engages in an illegal occupation or business.

5. A person who is intoxicated in a public place and who is either endangering directly the safety of another person or of property or is acting in a manner that causes a public disturbance.

6. A person who is engaged in indecent or obscene conduct in a public place.

7. A vagrant.

8. A person found begging in a public place.

9. A person found loitering in a house of ill fame or prostitution or place where prostitution or lewdness is practiced, encouraged or allowed.

10. A person who knowingly loiters in or about a place where an illegal occupation or business is being conducted.
11. A person who loiters in or about a police station, police headquarters building or other public building or place for the purpose of soliciting employment of legal services or the services of sureties upon criminal recognizances.

12. A person who is fund jostling or roughly crowding people unnecessarily in a public place.

13. Any person who, individually or with others, shall stand, loiter, stroll or collect in a group or crowd for any unlawful purpose or to the interference of vehicles, pedestrians or persons in any place in the City, public or private, or who shall refuse to leave any such place upon the request of any person having supervision thereof.

14. Any person who, after first being warned by a law enforcement officer or who, where a sign or signs have been posted by the City of by the owner or person or persons having control of the premises prohibiting same, shall loiter, stand, sit or lie in or upon any public or quasi-public sidewalk, area, mall or that portion of private property utilized for public use, so as to hinder or obstruct unreasonable the free passage thereon, or any person who blocks or obstructs or prevents free access to the entrance of any building open to the public.

15. Any person who shall, without any business or personal relationship with the owners, lessees, operators or persons having control over a private parking lot, mall or any private properly used for parking in conjunction with a business or apartment, where a sign or signs have been posted forbidding same, loiter, stand, park, sit or lie thereon, therein or traverse said lot, mall or property.

16. Any person who shall 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 owner 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, who without lawful authority, neglects or refuses to depart therefrom.

17. (Ord. No. 254, effective 3/17/2009)

Sec. 46-53. Penalty.

Any person convicted of violating this Article shall be guilty of a civil infraction punishable as prescribed in the Code.
(Ord. No. 254, effective 3/17/2009)

Article III Peddlers

Sec. 46-54. Peddler Defined.

The word "peddler" as used in this Chapter shall include any person traveling by foot, wagon, automotive vehicle or other conveyance, from place-to-place, from house-to-house, or from street-to-street, carrying, conveying or transporting goods, wares, merchandise, meats, fish, vegetables, fruits, garden truck, farm products or provisions, offering and exposing the same for sale or making sales and delivering articles to purchasers, or who, without traveling from place-to-place, shall sell or offer the same for sale from a wagon, automotive vehicle or other vehicle or conveyance. Any person who solicits orders and as a separate transaction makes deliveries to purchasers as part of a scheme or design to evade the provisions of this Chapter shall be deemed a peddler. The word "peddler" shall include the words "hawker" and "huckster".
(Ord. No. 254, effective 3/17/2009)
Sec. 46-55. License Required.

No person shall engage in the business of peddler without first obtaining a license therefore. No such license shall be granted except upon certification of the Chief of Police.

(Ord. No. 254, effective 3/17/2009)

Sec. 46-56. Fixed Stands Prohibited.

No licensee shall stop or remain in any one place upon any street, alley or public place, longer than necessary to make a sale to a customer wishing to buy. Any peddler using a vehicle, when stopped, shall place his vehicle parallel to and within 12 inches of the curb and shall depart from such place as soon as he has completed sales with customers actually present.

(Ord. No. 254, effective 3/17/2009)

Sec. 46-57. Prohibited Areas.

No peddler, in the sale of goods, wares and merchandise, shall obstruct any street, alley, sidewalk or driveway except as may be necessary and reasonable to consummate a sale nor remain, barter, sell, offer or expose for sale any goods, wares or merchandise in front of or at the side of any property against the wish or desire of the property owner or the tenant or occupant of such property. No peddler shall engage in peddling on any street, alley or public place after having been requested to desist by any police officer of the City because of congested or dangerous traffic conditions.

(Ord. No. 254, effective 3/17/2009)


No peddler shall shout or cry out his goods or merchandise, nor blow any horns, ring any bell or use any other similar device to attract the attention of the public.

(Ord. No. 254, effective 3/17/2009)

Sec. 46-59. Curb Service Prohibited.

No person shall operate or maintain any stand, vehicle, store or place of business on or near to any highway in such a manner that the customers of or traders with such person occupy or congregate within the limits of any street, lane, highway, or public place within the City. No person shall be permitted to use the streets, alleys, lanes or public places of the City for the service of customers or for the transaction of business, or to use any stands, stores or other places of business in any manner that shall require the customer, when transacting said business, to stand within the limits of the streets, highways, alleys or public places of the City.

(Ord. No. 254, effective 3/17/2009)

Sec. 46-60. Exempt Persons.

The following shall be exempt from the licensing requirements of this Chapter but shall be subject to the other provisions hereof:

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39 State law reference—Peddler’s license. MCL 35.441 (amended in 2016)
1. Farmers or truck gardeners selling or offering for sale any products grown, raised or produced by them, the sale of which is not otherwise prohibited or regulated.

2. Any person under 8 years of age, when engaged in peddling on foot in the neighborhood of his residence under the direct supervision of any school or recognized charitable or religious organization.

(Ord. No. 254, effective 3/17/2009)

**Sec. 46-61. Penalty.**

Any person convicted of violating this Article shall be guilty of a civil infraction punishable as prescribed in this Code.

(Ord. No. 254, effective 3/17/2009)

### Article IV Solicitors

**Sec. 46-62. Solicitors Defined.**

The word "solicitor" as used in this Chapter shall include any individual, whether a resident of the City or not, traveling either by foot, wagon, automobile, motor truck, or any other type of conveyance, from place-to-place, from house-to-house or from street-to-street, taking or attempting to take orders for sale of goods, wares and merchandise, books or magazines, personal property of any nature whatsoever for future delivery, or for services to be furnished or performed in the future, whether or not such individual has, carries or exposes for sale a sample of the subject of such sale or whether he is collecting advance payments on such sales or not, and such definition shall include any person who, for himself, or for another person, hires, leases, uses or occupies any building, structure, tent, railroad box car, boat, hotel room, lodging house, apartment, shop or any other place within the City for the sole purpose of exhibiting samples and taking orders for future delivery. The word "solicitor" shall include the word "canvasser".

(Ord. No. 254, effective 3/17/2009)

**Sec. 46-63. License Required.**

No person shall engage in business of a solicitor within the City without first obtaining a license therefor. No such license shall be granted except upon certification of the Chief of Police.

(Ord. No. 254, effective 3/17/2009)

**Sec. 46-64. License Application.**

The license application filed under the provisions of Chapter 71 of this Code shall furnish the following information:

A. Name and description of the applicant.

B. Permanent home address and full local address of the applicant.

C. A brief description of the nature of the business and the goods to be sold.

D. If employed, the name and address of the employer, together with credentials establishing the exact relationship.

E. The length of time -for which the right to do business is desired.
F. The place where the goods or property proposed to be sold, or orders taken for the sale thereof, are manufactured or produced, where such goods or products are located at the time said application is filed, and the proposed method of delivery.

G. A photograph of the applicant, taken with 60 days immediately prior to the date of the filing of the application, which picture shall be 2" x 2" (two inches by two inches) showing the head and shoulders of the applicant in a clear and distinguishing manner.

H. The fingerprints of the applicant and the names of at least two (2) reliable property owners of the County of Kalamazoo, State of Michigan, who will certify as to the applicant's good character and business respectability, or in lieu of the names of references, such other available evidence as to the good character and business responsibility of the applicant as will enable an investigator to properly evaluate such character and business responsibility.

I. A statement as to whether or not the applicant has been convicted of any crime, misdemeanor or violation of any municipal Ordinance, the nature of the offense and the punishment or penalty assessed therefore.

(Ord. No. 254, effective 3/17/2009)

Sec. 46-65. License Fees.

The fees for a solicitor's license shall be as specified in Chapter 72 of this Code. No fee for a solicitor's license shall be so applied as to occasion an undue burden upon interstate commerce. In any case where a license fee is believed by a licensee or applicant for a license to place an undue burden upon interstate commerce, he may apply to the City Clerk for an adjustment of the fee so that it shall not be discriminatory, unreasonable or unfair as to such commerce. Such application may be made before, at or within six (6) months after payment of the prescribed license fee. The applicant shall, by affidavit and supporting testimony, show his method of business and gross volume or estimated gross volume of business and such other information as the City Clerk, may deem necessary in order to determine the extent, if any, of such undue burden on such commerce. The City Clerk shall then conduct an investigation, comparing applicant's business with other businesses of like nature and shall make findings of fact from which he shall determine whether the fee fixed for the solicitor's license is unfair, unreasonable or discriminatory as to applicant's business and shall fix as the license fee for the applicant, an amount that is fair, reasonable and non-discriminatory, or if the fee has already been paid, shall order a refund of the amount over and above the fee so fixed. In fixing the fee to be charged, the City Clerk shall have the power to base the fee upon a percentage of gross sales, or any other method which will assure that the fee assessed shall be uniform with that assessed on businesses of like nature, so long as the amount assessed does not exceed the fee as prescribed in Chapter 72 of this Code. Should the City Clerk determine the gross sales measure of the fee to be the fair basis, he may require the applicant to submit, either at the time of termination of applicant's business in the City or at the end of each three month period, a sworn statement of the gross sales and pay the amount of fee therefore, provided that no additional fee during any one (1) license year shall be required after the licensee shall have paid an amount equal to the annual license fee as prescribed in Chapter 72 of this Code.

(Ord. No. 254, effective 3/17/2009)

Sec. 46-66. Exempt Persons.
Persons under 18 years of age, when engaged in soliciting on foot in the neighborhood of their residence under the direct supervision of any school or recognized charitable or religious organization shall be exempt from the requirements of this Chapter.

(Ord. No. 254, effective 3/17/2009)

Sec. 46-67. Penalty.

Any person convicted of violating this Article shall be guilty of a civil infraction punishable as prescribed in this Code.

(Ord. No. 254, effective 3/17/2009)

Article V. Transient Merchants.

Sec. 46-68. License Required.

No person shall engage in a temporary business of selling goods, wares or merchandise at retail within the City from any lot, premises, building, room or structure, including railroad cars, without first obtaining a license therefor. No such license shall be granted except upon certification of the Chief of Police and the City Treasurer.

(Ord. No. 254, effective 3/17/2009)

Sec. 46-69. Temporary Business Defined.

Every person engaged in the retail sale and delivery of goods, wares or merchandise, shall be deemed to be engaged in carrying on a temporary business unless his goods, wares or merchandise shall have been assessed for taxation in the City during the current year.

(Ord. No. 254, effective 3/17/2009)

Sec. 46-70. Indebtedness to the City.

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

(Ord. No. 254, effective 3/17/2009)

Sec. 46-71. Benefit Sales.

Any person selling or offering for sale any goods, wares or merchandise on behalf of and solely for the benefit of any recognized charitable or religious purpose shall, after meeting all other requirements, be granted a license without payment of the fee required by Chapter 72 of this Code.

(Ord. No. 254, effective 3/17/2009)

Sec. 46-72. Exemption.

Persons conducting a business licensed under another provision of this Code shall be exempt from the requirements of this Chapter.

(Ord. No. 254, effective 3/17/2009)

Sec. 46-73. Penalty.
Any person convicted of violating this Article shall be guilty of a civil infraction punishable as prescribed in this Code.
(Ord. No. 254, effective 3/17/2009)
Article VI Auctions

Sec. 46-74. “Auction Sale” Defined.

“Auction Sale”, as used in this Chapter shall mean the offering for sale or selling of personal property to the highest bidder or offering for sale at a high price and then offering the same at successive lower prices until a buyer is secured.

(Ord. No. 254, effective 3/17/2009)

Sec. 46-75. Auction License Required.

Except as otherwise provided in this Chapter, it shall be unlawful for any person to sell, dispose of or offer for sale at public auction within the City any personal property whatsoever, unless and until such person and the person acting or intending to act as auctioneer, shall have first obtained a license from the City Clerk in accordance with the provisions of Chapter 71, regulations and requirements of this Chapter.

(Ord. No. 254, effective 3/17/2009)

Sec. 46-76. Application.

Any person desiring to conduct an auction, at least 10 days prior to any single proposed auction sale, or at least 10 days prior to the opening and commencement of any auction business on a continuing basis, shall file with the City Clerk an application in writing duly verified by the applicant, which application shall state the following facts:

1. The name, residence and post office address of the person making the application, and if a firm or corporation, the name and post office address of the members of the firm or officers of the corporation, as the case may be.

2. The address at which the auction sale or sales will be conducted.

3. The name, residence and post office address of the auctioneer who will conduct such sale or sales.

4. A detailed inventory of all new merchandise to be offered for sale and a valuation thereof.

5. A detailed inventory of all other personal property to be offered for sale and a valuation thereof.

6. If it is proposed to conduct auction sales on any other basis than a single sale of property on hand at the time of application, then in such event the applicant shall submit a statement covering the kind and nature of property to be offered for sale and a fair estimate of the average value of property to remain on hand for sale from day-to-day.

7. If the license applied for covers only the sale of property then on hand, the statement shall disclose whether the sale will be with or without reservation.

8. All information required under Chapter 71 of the Code.

(Ord. No. 254, effective 3/17/2009)
Sec. 46-77. Continuing Auctions.

Where the license applied for covers a continuing business, the sale shall be conducted without reservation.
(Ord. No. 254, effective 3/17/2009)

Sec. 46-78. License Fees.

The fees for licenses issued under the provisions of this Chapter shall be as prescribed in Chapter 72 of this Code.
(Ord. No. 254, effective 3/17/2009)

Sec. 46-79. Reports.

Within 10 days from completing any auction or sales extending for a period of not more than six (6) days, the applicant shall file in duplicate with the City Clerk a listing of all property sold at such sale and the prices received on each separate bid and sale, together with a detailed inventory of all property unsold at the end of such auction. In all other cases, such listing of sales shall be filed on or before the 10th day of each month to cover all such business for the preceding calendar month.
(Ord. No. 254, effective 3/17/2009)

Sec. 46-80. Fraudulent Practices.

At any sale by auction, no person shall act as a “bidder” commonly known as a “capper”, “booster” or “shiller” or offer or make any false bid or falsely offer or pretend to buy any article sold or offered for sale by auction.
(Ord. No. 254, effective 3/17/2009)

Sec. 46-81. Renewals.

All applications for renewals shall clearly state any changes regarding information contained in the original application, any new conditions that may affect the issuance of a license and any other information the City Clerk may request.
(Ord. No. 254, effective 3/17/2009)

Sec. 46-82. False Representations.

It shall be unlawful for any person to sell or attempt to sell by auction, or to advertise for sale any personal property by falsely representing the whole or a part thereof to be bankrupt or insolvent stock, or damaged goods, or goods saved from fire or to make any false statements as to the previous history or character of such property.
(Ord. No. 254, effective 3/17/2009)

Sec. 46-83. Street Sales.

It shall be unlawful to conduct any auction sale except
(Ord. No. 254, effective 3/17/2009)

Sec. 46-84. Hours.

It shall be unlawful for any person to conduct auction sales on any street, sidewalk or other public place.
Sec. 46-85. Exempt Sales.

The provisions of this Chapter shall not extend to or apply to the following sales:

1. To sales under mortgage foreclosure; or sales under direction of a court or court officers.

2. Sales by or on behalf or under authority of the City, the United States, the State of Michigan or any political subdivision, branch, board, agency or commission of such governmental bodies.

3. Sales made in pursuance of judgment, decree, order or authority of any court or seizure of any officer.

4. Sales by receivers appointed by law or by a general assignment for the benefit of creditors.

Sec. 46-86. Penalty.

Any person convicted of violating this Article shall be guilty of a civil infraction punishable as prescribed in this Code.

Sec. 46-87. Citation.

This Chapter shall be known and may be cited as the “Residential Sales Ordinance”.

Sec. 46-88. Definitions.

For the purpose of this Chapter, "residential sales" shall include barn sales, garage sales, yard sales, basement sales, porch sales, patio sales and any other sales where tangible personal property of a resident of the premises including clothing, utensils, appliances, equipment and all other tangible personal property commonly used in and about the residence for the personal use of a resident, is sold by that resident.

Sec. 46-89. Duration.

No residential sale shall extend for more than 72 hours.

Sec. 46-90. Limit on Number.

No person shall have more than two (2) sales in any one (1) year.

Sec. 46-91. Permit Required.

Every person intending to have a residential sale shall obtain a permit therefor from the City Clerk.
Sec. 46-92. Permit Application.

The City Clerk will furnish forms for application for permits, and said permits shall be returned to the City Clerk at the close of the sale.

Sec. 46-93. Arrangement of Merchandise.

All tangible personal property proposed to be sold shall be arranged in an orderly manner on the premises; and shall not be placed in such a way as to be a nuisance to adjoining property, and shall in no way be arranged so as to obstruct the vision of persons using driveways or entering and exiting within the neighborhood.

Sec. 46-94. Signs.

Signs advertising such sales shall not exceed 17” x 22” (seventeen inches by twenty-two inches) (a standard size sign) and shall not be placed on any public property, on any curbed lawn or at any public parking area, and shall be removed within 24 hours after the sale.

Sec. 46-95. Penalty Remedies

Any person convicted of being a disorderly person shall be guilty of a civil infraction punishable as prescribed in this Code. In addition thereto, any violation of this Chapter is hereby determined to be a nuisance per se, and the City may forthwith obtain an order from a court of competent jurisdiction ordering the abatement of such nuisance, and if the danger to the health, safety and/or welfare of the public or persons at or near the property is imminent, the Building Official of the City of Galesburg may forthwith enter upon the premises and abate the nuisance.

Sec. 46-96. Permits Restricted to Individuals.

Residential sales. shall be permitted only by individuals and no firms, corporations or other associates shall be permitted to have a residential sale without the prior written consent obtained from the City Council of the City of Galesburg. The City of Galesburg in granting such consent shall determine whether the proposed sale, because of its magnitude or nature would be dangerous to the health, safety and/or welfare of the public or the persons living near the premises, or passing by the premises or using the premises or nearby premises.

ARTICLE VIII CONSUMERS FIREWORKS (Ordinance 273 effective 9/30/19)

Sec. 46-97. Definitions.

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

b. Consumer Fireworks. Fireworks devices that are designed to produce visible effects by combustion, that are required to comply with the construction, chemical composition and labeling regulations promulgated by the United States Consumer Product Safety Commission under 16 CFR Parts 1500 and 1507, and that are listed in APA Standard 87-1, 3.1.2, 3.1.3 or 3.5. "Consumer fireworks" does not include low-impact fireworks.

c. Low-Impact Fireworks. Ground and handheld sparkling devices, as that phrase is defined under APA Standard 87-1, 3.1, 3.1.1.1.1 to 3.1.1.1.8 and 3.5.

d. Minor. An individual who is less than 18 years of age.

(Ord. No. 273, effect. 9/30/19)

Sec. 46-98. Prohibition on the Use of Consumer Fireworks.

a. No person shall fire, ignite, discharge or in any way use consumer fireworks except during certain hours specified herein on the day preceding, the day of or the day after a national holiday, as defined herein. On days when consumer fireworks may be used, a person may fire, ignite, discharge or use consumer fireworks only between the hours of 8:00 a.m. and 1:00 a.m. Consumer fireworks are always prohibited between the hours of 1:00 a.m. and 8:00 a.m. without exception.

b. No person shall fire, ignite, discharge or in any way use consumer fireworks on public property, school property, church property or the property of another without that organization's or person's express permission to use consumer fireworks on those premises.

c. No person shall sell, give, provide, permit or allow to be given consumer fireworks to a minor.

(Ord. No. 273, effect. 9/30/19)


No person shall fire, ignite, discharge or in any way use consumer fireworks in violation of Chapter 26, Sections 26-108 through 26-110, of the Galesburg City Code of Ordinances.

Sec. 46-100. Penalties.

(Ord. No. 273, effect. 9/30/19)

Sec. 46-101. Penalties.

A person who violates this Article shall be responsible for a Municipal Civil Infraction, punishable by a fine of not more than $500.00 for each violation.

(Ord. No. 273, effect. 9/30/19)
Chapter 50
PARKS AND RECREATION

ARTICLE I.

Sec. 50-1. Prohibited conduct.
Sec. 50-2. Operation.
Sec. 50-3-Sec. 50-10. Reserved.

ARTICLE II

Division 5, City Parks Board

Sec. 50-11. Purpose
Sec. 50-12. Parks Board Established
Sec. 50-13. Appointment and Terms of Members
Sec. 50-14. Quorum – Officers
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ARTICLE III

Parks, Regulations

Sec. 50-19. Title
Sec. 50-20. Violations
Sec. 50-21. Additional Regulations
Sec. 50-22. Use by Groups or Organizations
Sec. 50-23. Issuance of Citations.
Sec. 50-24. Penalties
PARKS AND RECREATION

Sec. 50-1. Prohibited conduct.

No person in any park owned or operated by the city shall:

(1) Willfully mark, deface, disfigure, injure, tamper with or displace or remove any buildings, bridges, cables, benches, fireplaces, railings, paving or paving material, public utilities or parts or appurtenances thereof, signs, notices or placards, whether temporary or permanent, monuments, stakes, posts or other boundary markers, or other structures or equipment, facilities or park property or appurtenances whatsoever, either real or personal.

(2) Fail to cooperate in maintaining restrooms and washrooms in a neat and sanitary condition.

(3) Bring in, dump, deposit, or leave any refuse, trash, rubbish, waste or garbage except where such can be placed in receptacles when these are provided for such purposes; where receptacles are not provided all refuse, trash, rubbish, waste or garbage shall be carried away from the park by the person responsible for its presence and properly disposed of elsewhere.

(Code 2005,§50-1)

Sec. 50-2. Operation.

a. City parks shall be opened daily to the public between 9:00 a.m. and sunset. No one shall use, occupy or be present in any park except during the above hours. Provided, if any person shall wish to use the park between sunset and 9:00 a.m. for a public or civic function, he shall apply to the city clerk for a permit. The city clerk may issue a permit if the function is, in fact, civic or public, if satisfactory arrangements are made to police the said park, and if such use is not detrimental to the city or persons living near the park.

b. The operation of motor vehicles in any park is prohibited except in that area laid out and appropriated as a driving lane or lanes for motor vehicles by the park board. No motor vehicle shall be driven or operated on said lane or lanes at a speed greater than five miles per hour.

c. No person shall stop, stand or park a motor vehicle except in such areas as may be laid out and designated as a parking area by the park board.

d. No person shall kindle or build or cause to be kindled or built a fire in any park except in places designated by the park board. In those areas where fires are permissible, such fires must be contained in a receptacle designed for the purpose of holding a fire and must be attended at all times.

e. No person shall bring in, cause, or allow any dog or cat which he owns or has possession or control of within the confines of any park unless such animal is attached to a leash not to exceed six feet in length; such leash to be of sufficient strength to hold such animal in constant check.

(Code 2005,§50-2)

Article II

Division 5

Sec. 50-11. Purpose.

It is the purpose of the Parks Board to advise the City Council regarding protection, promotion and usage of Galesburg City Parks. The Parks Board shall also prepare and adopt a Recreation Plan, which may be used to secure grand funding.

(Ord. No. 250, effective 10/30/2008)
Sec. 50-12. Parks Board Established.

The City of Galesburg Parks Board is hereby established.
(Ord. No. 250, effective 10/30/2008)

Sec. 50-13. Appointment and Terms of Members.

The Parks Board shall consist of five (5) members. The members shall be a member of the Galesburg City Council, a member of the Galesburg Downtown Development Authority, a member of the Galesburg Business Association and two (2) persons who are either residents of the City or business owners within the City. Members shall be appointed by the City Council for a period of three (3) years commencing January 2nd of each year. Parks Board members shall serve at the will of the City Council and may be removed from the Parks Board before expiration of their term with or without cause.
(Ord. No. 250, effective 10/30/2008)

Sec. 50-14. Quorum - Officers.

A majority of the members of the Parks Board shall constitute a quorum for the transaction of business. The Board shall annually, at its first meeting, elect a Chairperson, Vice Chair, Secretary and such other officers as it deems necessary.
(Ord. No. 250, effective 10/30/2008)

Sec. 50-15. Meetings and Procedures.

The Parks Board shall establish rules of procedure for its operation. The Board shall meet on a regular basis no less than quarterly. All meetings shall be subject to the Open Meetings Act.
(Ord. No. 250, effective 10/30/2008)

Sec. 50-16. Annual Report.

In November of each year, the Parks Board shall file with the City Council a report consisting of a concise statement of the activities of the Board for the past year and a list of suggested topics or projects for the upcoming year.
(Ord. No. 250, effective 10/30/2008)

Sec. 50-17. Records.

The Secretary of the Parks Board shall keep a written record of business and transactions of the Board. Such records shall be filed with the City Clerk and shall be a public record open for inspection.
(Ord. No. 250, effective 10/30/2008)

Sec. 50-18. Budget.

The City Council shall adopt a budget and appropriate such funds as the City Council feels necessary for the operation of City parks.
(Ord. No. 250, effective 10/30/2008)

ARTICLE III

Sec. 50-19. Title.
This Chapter shall be called the Galesburg Park Regulations Ordinance.  
(Ord. No. 250, effective 10/30/2008)

Sec. 50-20. Violations.

The following actions in a park shall be deemed violations of this Ordinance.

(A) No person shall possess or use firearms, bows, bb guns, pellet guns, air rifles, cross bows or other items used primarily for hunting or target practice, except as may be authorized by the Parks Board for the control of nuisance animals.

(a) No person shall possess or use any trapping or capturing device, except as may be authorized by the Parks Board for the control of nuisance animals.

(C) No person shall possess or consume any alcoholic beverage, except in conjunction with a community event approved by the City Council.

(D) No person shall consume any illegal controlled substance.

(E) No person shall engage in violent or combative activities or games, except at such times and areas as may be authorized by the Parks Board.

(F) No person shall camp or erect or use any camping equipment, except as may be authorized by the City Council or Parks Board.

(G) No person shall cut down, destroy or remove any trees, including trees that are down, shrubs, bushes or other plant life, except as may be authorized by the Parks Board.

(H) No personal shall excavate or remove any earth, sand or gravel, except as may be authorized by the Parks Board.

(I) Except as otherwise provided in this Ordinance, no person shall injure or damage, in any manner, any monument, fence, bridge, seat, tree, flower, playground equipment or any other public property on or in a park.

(J) No person shall place or deposit any garbage, glass, tin can, paper, refuse or other waste in the park except in containers provided for such purpose. Dumping of household waste is specifically prohibited.

(K) No personal shall kindle or build a fire in a park, except in a fireplace or grill designed for that purpose. Upon leaving such fire, the person last using it shall see to it that the fire is extinguished. Dumping of ashes, except in a container provided for that purpose, is expressly prohibited.

(L) No person shall permit any pet to run at large in the park. Pet feces shall be picked up by the pet owner and disposed of properly when such feces are left on any foot path, road or improved area of a park.

(M) No person shall sell, hawk or peddle in a park any merchandise of any nature, except in connection with a community event authorized by the City Council or Parks Board.

(N) No person shall beg nor solicit money or merchandise within a park. The sale of merchandise
in connection with an event or activity may be authorized by the Parks Board.

(0) Galesburg City parks are designated animal preserves. No person shall trap, capture, attempt to trap or capture, or disturb any animal or an animal's nest or burrow, except as may be authorized by the Parks Board for the control of nuisance animals.

(P) No person shall drive or park a motor vehicle, moped, motorcycle, off-road recreational vehicle or snowmobile in a park except in spaces set aside and designated as driving and parking areas, except for emergency vehicles and those vehicles used by City representatives for the repairs or maintenance of the park. Except for emergency vehicles and those vehicles used by City representatives, no motorized vehicle may be driven or parked within the gated portion of a park when the gates are closed.

(Q) No person shall operate a motor vehicle, moped, motorcycle, off-road recreational vehicle or snowmobile in the park in any manner contrary to state law or ordinance.

(R) No person shall use any facility within the park including, but not limited to, baseball fields, restroom facilities or drinking fountains, except for their intended use.

(S) No person shall use any threatening, obscene or profane language in a park or engage in any disorderly or indecent conduct therein, calculated or intended, to interfere with the proper enjoyment of other persons using the park.

(T) City parks shall be opened daily to the public between 9:00 a.m. and sunset. No one shall use, occupy or be present in any park except during the above hours. Provided, if any person shall wish to use the park between sunset and 9:00 a.m., for a public or civic function, he shall apply to the City Clerk for a permit. The City Clerk may issue a permit if the function is, in fact, civic or public, if satisfactory arrangements are made to police the said park, and if such use is not detrimental to the City or personal living near the park.

(U) The operation of motor vehicles in any park is prohibited except in that area laid out and appropriated as a driving lane or lanes for motor vehicles by the Parks Board. No motor vehicle shall be driven or operated on said lane or lanes at a speed greater than five miles per hour.

(V) No person shall stop, stand or park a motor vehicle except in such areas as may be laid out and designated as a parking area by the Parks Board.

(W) No person shall kindle or build, or cause to be kindled or built, a fire in any park except in places designated by the Parks Board. In those areas where fires are permissible, such fires must be contained in a receptacle designed for the purpose of holding a fire and must be attended at all times.

(X) No person shall bring in, cause or allow any dog or cat which he owns or has possession or control of within the confines of any park unless such animal is attached to a leash not to exceed six feet in length; such leash-to be of sufficient strength to hold such animal in constant check. (Ord. No. 250, effective 10/30/2008)

Sec. 50-21. Additional Regulations.

The City Council may, with the advice of the Parks Board, make such additional rules and regulations pertaining to the conduct and use of a park as is necessary to administer the parks and to protect public property and the health, safety and welfare of the public.
Sec. 50-22. Use by Groups or Organizations.

The City Council, following review and recommendation by the Parks Board to the City Council, may grant groups or individuals the right to use a City park on a continuing basis upon such terms and conditions as may be required by the City Council to protect the park and public property therein and to minimize any anticipated negative effect upon neighbors and all residents of the City for the protection and promotion of residents' health, safety and welfare.

Sec. 50-23. Issuance of Citations.

Any certified police officer or those persons duly authorized by the Parks Board as Park Rangers may issue and serve municipal civil infractions upon any person who violates this Ordinance or any park rules and regulations as adopted.

Sec. 50-24. Penalties

Any person who violates or fails to comply with this Ordinance or any park rule or regulation as adopted shall be responsible for a municipal civil infraction. A civil fine, including costs, shall be imposed according to the schedule adopted by the City Council.
Chapter 54
PLANNING

ARTICLE I.
IN GENERAL

Secs. 54-1-54-15. Reserved.

ARTICLE II (Ordinance 259, effective 6/11/2011)

Sec. 54-16. Establishment.
Sec. 54-17. Appointment and Terms.
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40 State law reference—Generally. MCL 125.3801 et seq.
ARTICLE II. (Ordinance 259, effective 6/11/2011)

Sec. 54-16. Establishment.

The City Council hereby confirms the establishment of the Galesburg City Planning Commission with Zoning Authority under the Michigan Planning Enabling Act, Public Act 33 of 2008 (MCL 125.3801, et seq.) and the Michigan Zoning Enabling Act, Public Act 110 of 2006 (MCL 125.3101 et seq.) as successor to the Galesburg City Planning Commission, established under the City or Village Zoning Act, Public Act 207 of 1921 (MCL 125.581 et seq.), and the Municipal Planning Act, Public Act 285 of 1931 (MCL 125.31, et seq.). The Galesburg City Planning Commission shall have 7 members. Members of the Galesburg City Planning Commission, as of the effective date of this Ordinance, shall, except for an ex officio member whose term on the Planning Commission shall be limited to his or her term on the City Council, continue to serve for the remainder of their existing terms so long as they continue to meet all of the eligibility requirements for Planning Commission membership set forth within the Michigan Planning Enabling Act, Public Act 33 of 2008, MCL 125.3801, et seq (MCL 125.3811, MCL 125.3815 and MCL 125.3881).

(Ord. No. 259, effective 6/11/2011)

Sec. 54-17. Appointment and Terms.

The City Mayor, with the approval of the City Council by a majority vote of the members elected and serving, shall appoint all Planning Commission members, including the ex officio member (MCL 125.3815).

The Planning Commission members, other than an ex officio member, shall serve for terms of 3 years each (MCL 125.3815).

A Planning Commission member shall hold office until his or her successor is appointed. Vacancies shall be filled for the unexpired term in the same manner as the original appointment (MCL 125.3815).

Planning Commission members shall be qualified electors of the City, except that one Planning Commission member may be an individual who is not a qualified elector of the City. The membership of the Planning Commission shall be representative of important segments of the community, such as the economic, governmental, educations, and social development of the City, in accordance with the major interests as they exist in the City, such as agriculture, natural resources, recreation, education, public health, government, transportation, industry and commerce. The membership shall also be representative of the entire geography of the City (MCL 125.3815).

One member of the City Council shall be appointed to the Planning Commission as an ex officio member (MCL 125.3815).

An ex officio member has full voting rights. An ex officio member's term on the Planning Commission shall expire with his or her term on the City Council (MCL 125.3803 and MCL 125.3815).

No other elected Officer or employee of the City is eligible to be a member of the Planning Commission (MCL 125.3815).

Except for the ex officio member, all members shall continue to serve as a member until their successor is appointed and qualified to serve. Subsequently, members shall be appointed to fill vacancies or upon the termination of their term by the City Mayor, subject to approval by a majority vote of the members of the City Council elected and serving (Ord. No. 259, effective 6/11/2011)

Sec. -54-18. Removal.

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 (MCL 125.3815).
Sec. 54-19. Conflict of Interest.

Before casting a vote on a matter on which a Planning Commission member may reasonably be considered to have a conflict of interest, the member shall disclose the potential conflict of interest to the Planning Commission. Failure of a member to disclose a potential conflict of interest as required by this Ordinance constitutes malfeasance in office (MCL 125.3815).

For the purposes of this Section, the Planning Commission shall define "conflict of interest" in its By-Laws. (Ord. No. 259, effective 6/11/2011)

Sec. 54-20. Compensation.

The Planning Commission members may be compensated for their services as provided by City Council Resolution. The Planning Commission may request from the City Council compensation and expenses of its members for travel and registration when engaged in the performance of official activities authorized by the City Council, including, but not limited to, attendance at conferences, workshops, educational and training programs, meetings and inspections (MCL 125.3823). (Ord. No. 259, effective 6/11/2011)

Sec. 54-21. Officers and Committees.

The Planning Commission shall elect a Chairperson, Vice Chairperson and a Secretary from its members and may create and fill other offices as it considers advisable. An ex officio member of the Planning Commission is not eligible to serve as Chairperson. The term of each office shall be 1 year, with opportunity for re-election as specified in the Planning Commission By-Laws (MCL 125.3817). The Planning Commission may designate a non-member to take meeting minutes. (Ord. No. 259, effective 6/11/2011)

The Planning Commission may also appoint advisory committees from its membership or who are not members of the Planning Commission (MCL 125.3817). (Ord. No. 259, effective 6/11/2011)

Sec. 54-22. By-laws, Meetings and Records.

The Planning Commission shall adopt By-Laws for the transaction of business (MCL 125.3819).

The Planning Commission shall hold at least 4 regular meetings each year and shall, by Resolution, determine the time and place of the meetings.

Unless otherwise provided in the Planning Commission's By-Laws, a special meeting of the Planning Commission may be called by the Chairperson or by 2 other members upon written request to the Secretary. Unless the By-Laws otherwise provide, the Secretary, or his/her designee, shall send written notice of a special meeting to Planning Commission members at least 48 hours before the meeting (MCL 125.3821). The foregoing notice is not required where the special meeting is determined and scheduled at a regular meeting of the Commission, except for notice to members absent from the regular meeting.

The business that the Planning Commission may perform shall be conducted at a public meeting held in compliance with the Open Meetings Act, Public Act 267 of 1976, MCL 15.261, et seq (MCL 125.3821).

The Planning Commission shall keep a public record of its Resolutions, transactions, findings and determinations. A writing prepared, owned, used, in the possession of or retained by the Planning Commission in the performance of its official functions shall be made available to the public in compliance with the Freedom of Information Act, Public Act 442 of 1976, MCL 15.231, et seq (MCL 125.3819 and MCL 125.3821). (Ord. No. 259, effective 6/11/2011)
Sec. 54-23. Annual Report.

The Planning Commission shall make an annual written report to the City Council concerning its operations and the status of its planning activities, including recommendations regarding actions by the City Council related to planning and development (MCL 125.3819).
(Ord. No. 259, effective 6/11/2011)

Sec. 54-24. Authority to Make Master Plan.

Under the authority of the Michigan Planning Enabling Act, Public Act 33 of 2008, MCL 125.3801 et seq., and other applicable planning statutes, the Planning Commission shall make a Master Plan as a guide for development within the City's planning jurisdiction (MCL 125.3807 and MCL 125.3831) and submit its proposed plan to the City Council for adoption (MCL 125.3843).

Final authority to approve a Master Plan or any amendments thereto shall rest with the City Council. The existing Master Plan for the City shall be the City's Master Plan until amended by Planning Commission recommendation and adoption by the City Council (MCL 125.3843).
(Ord. No. 259, effective 6/11/2011)


The City Council hereby confirms the transfer of all powers, duties and responsibilities provided for Zoning Boards or Zoning Commissions by the former Township Zoning Act, Public Act 184 of 1943, MCL 125.271, et seq.; the Michigan Zoning Enabling Act, Public Act 110 of 2006, MCL 125.3101, et seq.; or other applicable zoning statutes, to the Galesburg City Planning Commission with zoning authority, formerly established under the Michigan Zoning Enabling Act, Public Act 110 of 2006, MCL 125.3101 et seq., and the Township Planning Act, Public Act 168 of 1959, MCL 125.321, et seq.

The existing Zoning Ordinance shall remain in full force and effect until otherwise amended or repealed by the City Council.
(Ord. No. 259, effective 6/11/2011)

Sec. 54-26. Capital Improvements Program.

To further the desirable future development of the City under the Master Plan, the Planning Commission shall annually prepare recommendations to the City Council of public structures and improvements, in general order of their priority, for the following 6 year period. The Commission shall, at least every 5 years after adoption of the City Master Plan, review the Plan to determine whether it is advisable to commence procedures to amend the Plan or adopt a new Plan (MCL 125.3845).
(Ord. No. 259, effective 6/11/2011)

Sec. 54-27. Subdivision and Land Division Recommendations.

The Planning Commission may recommend to the City Council provisions of an Ordinance or rules governing the subdivision of land. Before recommending such an Ordinance or rule, the Planning Commission shall hold a public hearing on the proposed Ordinance or rule. The Planning Commission shall give notice of the time and place of the public hearing not less than 15 days before the hearing by publication in a newspaper of general circulation within the City (MCL 125.3871).

The Planning Commission shall review and make recommendations on any proposed plat before action thereon by the City Council under the Land Division Act, Public Act 288 of 1967, MCL 560.101, et seq. Before making its recommendation, the Planning Commission shall hold a public hearing on the proposed plat. A plat submitted to the Planning Commission shall contain the name and address of the proprietor or other person to whom notice of a hearing shall be sent. Not less than 15 days before the date of the hearing, notice
of the date, time and place of the hearing shall be sent to that person at that address by mail and shall be published in a newspaper of general circulation in the City. Similar notice shall be mailed to the owners of land immediately adjoining the proposed platted land (MCL 125.3871). The Planning Commission shall have 63 days from receipt of the plat to issue its recommendation of approval, approval with conditions or disapproval; in default of which it shall be considered approval.

(Ord. No. 259, effective 6/11/2011)
Chapter 58

**SOLID WASTE**

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41 State law reference—Solid waste management, MCL 324.11501 et seq.; littering, MCL 324.8901 et seq.
CHAPTER 58
SOLID WASTE

ARTICLE I. IN GENERAL


ARTICLE II.
RESIDENTIAL WASTE REDUCTION

Sec. 58-16. Title.

This article shall be known as the Residential Waste Reduction Ordinance of 1995 and herein referred to as this article.
(Ord. No. 204,§1.01, 1-14-1995)

Sec. 58-17. Purpose.

(a) The purpose of this article is to protect and promote the public health, safety, and welfare of the inhabitants of the local unit by regulating the collection of residential garbage and recyclables in a manner that will promote waste reduction.

(b) This article does not prevent persons or organizations from marketing or disposing of collected materials where the persons or organizations choose, as long as the collected materials are marketed or disposed in a manner which is consistent with local, state, and federal requirements.
(Ord. No. 204,§1.02, 1-14-1995)

Sec. 58-18. Repeal of conflicting ordinances.

All ordinances or parts of ordinances in conflict with this article are hereby repealed.
(Ord. No. 204,§1.03, 1-14-1995)


Sections of this article shall be deemed severable and should any section, clause or provision of this article be declared to be invalid, the same shall not affect the validity of the article as a whole or any part thereof other than the part so declared to be invalid.
(Ord. No. 204,§1.04, 1-14-1995)


This article is not intended to alter or delete terms or conditions of any existing contract or franchise or the local unit's rights and abilities to develop other means of providing garbage, recycling, trash or yard trimmings service through, for example, but not limited to, collection services provided by municipal crews or a private contractor.
(Ord. No. 204,§1.05, 1-14-1995)

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:

**Curbside** collection means the gathering by a hauler of designated materials placed by a customer within six feet of the curb or road's edge.

**Front door service** means a service which collects designated materials on the exterior side of a residence which faces the street access for the residence.

**Garbage** means all waste consisting of or in general contact with putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food, and other small miscellaneous residential waste, such as consumer packaging used for food products.

**Hauler/refuse collector** means any person involved in the business of collecting, transporting or disposing of refuse/garbage generated within this jurisdiction.

**Licensing agent** means the local unit or a person or public agency designated by the local unit to perform administrative duties specified in this article.

**Local unit** means the city in which this article is adopted.

**On site collection service** means service provided to residential buildings of five dwelling units or more. Containers for such service generally shall be for common collection.

**Person** means any individual, firm, public or private corporation, partnership, trust, public or private agency or any other entity or any group of such persons.

**Prohibited items** means items which cannot be lawfully deposited in a Type II landfill as defined by state law.

**Recyclable material or recyclables** means waste materials which can be converted to a useful product and for which there is a market. Examples of recyclable materials include corrugated materials, cardboard, clear glass jars and bottles, and certain plastics and metals.

**Trash/refuse** means all rubbish, refuse and debris of a domestic or household character, except garbage, recyclables, and yard trimmings, or any other prohibited item. Recyclable containers containing trash shall be deemed trash for purposes of this article.

**Unit-based fees** means a fee system used by a hauler to charge for service based on the amount (weight or volume) of the material being collected from the customer. Fees progressively based on the collection container size shall be deemed "unit-based fees" for the purposes of this article.

**Yard trimmings** means 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.

(Ord. No. 204,§2.01, 1-14-1995)

**Sec. 58-22. Disposition of garbage.**
No person shall dispose of any garbage within the city other than by means of an approved incinerator, approved garbage grinder or to an approved hauler/collection service authorized to engage in such business by the city.

(Ord. No. 204,§6.02, 1-14-1995)
Sec. 58-23. Accumulation and disposition of rubbish.
Any rubbish accumulated or stored outside of a dwelling or building on any premises, shall be stored in receptacles meeting the requirements of this article. No rubbish may be stored or accumulated which is contaminated by any garbage as herein defined, unless stored as garbage. Rubbish shall be disposed of only to a licensed hauler/refuse collector except that any person may dispose of his/her own rubbish:

   (1) By an approved incinerator located within a building.

   (2) Where such rubbish consists wholly of material which will burn readily without objectionable odor, by outside incineration, but only in approved containers with closed tops located in a safe place at least 15 feet from any structure. No person shall burn any rubbish, except leaves, within 30 feet of any street line. On any premises where any building or structure exists, no rubbish, except leaves, shall be burned in any part of the front yard or in any side yard abutting on any street. The terms "front yard" and "side yard" shall have the meanings defined in chapter 42, manufactured housing and trailers.

   (3) No burning of any kind shall be done, when in violation of this Code, state, county or local statute.
(Ord. No. 204,§6.03, 1-14-1995)


ARTICLE III. HAULERS AND COLLECTORS
DIVISION 1. GENERALLY

Sec. 58-39. General hauler/refuse collector requirements.

(a) Collection services. A hauler/refuse collector shall offer the following three curbside collection services to its residential customers in buildings containing four dwelling units or less:

(1) Garbage/refuse-recycling;
(2) Trash; and
(3) Yard trimming.

Customers shall be permitted to purchase any or all of the above services on either a regular or irregular basis.

(b) Limit on amount of residential recyclable material. A hauler/refuse collector shall not limit the amount of residential recyclable materials from each customer as long as the materials are generated by that customer.

(c) Container size options. A hauler/refuse collector shall offer at least three garbage/refuse collection container size options. The smallest option shall be no greater than a 30 gallon container.

(d) On-site collection. A hauler/refuse collector shall offer customers living in housing structures with five or more units the opportunity for on-site collection of garbage/refuse and recyclables.
(e) Compliance with local law. Haulers/refuse collectors shall abide by local ordinances in effect which regulates days when materials are collected.
(Ord. 204, §3.01, 1-14-1995)

Sec. 58-40. Frequency of service.

(a) A hauler/refuse collector shall offer its regular curbside residential garbage/refuse-recycling customers a minimum of once per week garbage/refuse collection service, and once per month recycling collection service. A hauler/refuse collector shall also offer irregular or as needed collection service.

(b) A hauler/refuse collector shall offer its regular curbside residential garbage/refuse recycling customers’ residential trash and yard trimming collection services at a frequency of not less than four times per year. A hauler/refuse collector shall also offer irregular or as needed collection service.
(Ord. 204, §3.02, 1-14-1995)

Sec. 58-41. Fees.

(a) A hauler/refuse collector shall clearly and separately indicate on the customers' billing statements the fees of each of the collection services purchased every time the customer is billed.

(b) Fees for residential collection services shall be "unit-based," with the exception of recycling which shall not be unit-based.

(c) A hauler shall not charge an extra fee for front door or similar noncurbside service to elderly or handicapped customers who provide proof to the hauler/refuse collector of a disability which renders their household unable to place materials for collection at the curb or road edge. In case of dispute between customer and hauler/refuse collector as to adequacy of the proof provided by the customer, the local unit shall make the final determination.
(Ord. 204, §3.03, 1-14-1995)

Sec. 58-42. Minimum liability insurance requirement.

(a) All haulers/refuse collectors shall provide proof of minimum liability insurance when working in the local unit as follows:

(1) Commercial general liability (including contractual liability, independent contractors' coverage, and broad form general liability extensions):

a. Personal/bodily injury:
   1. $1,000,000 each person.
   2. $1,000,000 each accident.

b. Property damage:
   1. $1,000,000 each accident.
   2. $1,000,000 each aggregate.

(2) Motor vehicle liability (including hired cars and auto non-ownership):
a. Bodily injury:

1. $1,000,000 each person.
2. $1,000,000 each occurrence.

b. Property damage:

1. $1,000,000 each accident.
2. $1,000,000 each aggregate.

(b) The insurance company providing the above insurance to the hauler/refuse collector must be licensed to do business in the state, recognized by the state insurance bureau, and have a rating of B+ or better.

(c) The insurance policy shall include an endorsement stating that it is understood and agreed by the hauler/refuse collector and its insurance company that 30 days advance written notice of cancellation, nonrenewal, reduction, and/or material change of the insurance policy shall be sent to the licensing agent and local unit.

(Ord. 204, §3.04, 1-14-1995)

Sec. 58-43. Educational requirements.

(a) Semiannual educational notice. On a semiannual basis, all haulers/refuse collectors shall distribute to their residential customers, the local unit and the licensing agent printed material which communicates the availability of and includes the details and procedures for the collection services regulated in this article. Haulers/refuse collectors may distribute the printed materials with customer billings or appropriate leave behind tags for its customers. A hauler/refuse collector shall notify its residential customers of any material changes in service that effect the customer on or before the next billing cycle.

(b) Educating noncompliant customers. If a customer of the hauler/refuse collector does not properly prepare materials for collection, a hauler/refuse collector is not obligated to pick up the material if, by collecting the materials, a hauler places itself in a position of noncompliance with this ordinance or other applicable law. In such cases, the hauler/refuse collector shall notify the customer of the potential violation and provide instructions to the customer on how to comply. The notification shall be: a leave behind tag, a letter, telephone and/or direct personal communication.

(Ord. 204, §3.05, 1-14-1995)

Sec. 58-44. Reporting requirement.

In order to permit public evaluation of the waste reduction measures promoted in this ordinance, all haulers/refuse collectors shall file quarterly reports with the licensing agent by January 15, April 15, July 15 and October 15 of each year. The report shall contain a good faith estimate of the amount of residential recyclables collected by the hauler/refuse collector within the city.

(Ord. 204, §3.06, 1-14-1995)

Sec. 58-45. Transportation.

No person shall transport garbage, rubbish, trash, recyclables, or other waste matter upon any street, alley, road or highway of the city in any vehicle unless such vehicle be so constructed and maintained as to prevent offensive odors or exhalations therefrom and leaking, sifting, dropping, spilling, or blowing of the contents upon the street, alley, road, highway, right of way, or property, public or private.
Sec. 58-46. Sanctions.
A hauler/refuse collector who violates any of the provisions of this article shall be deemed to be responsible for a municipal civil infraction as defined by state statute and shall be subject to a civil fine of not more than $500.00 along with costs which may include all expenses, direct and indirect, to which the local unit has been put in connection with the municipal civil infraction. In no case, however, shall costs of neither less than $9.00 nor more than $500.00 be ordered. Each day that a violation occurs shall constitute a separate offense. The foregoing sanctions shall be in addition to the offense. The foregoing sanctions shall be in addition to the rights of the local unit to proceed under section 58-67 or at law or equity with other appropriate and proper remedies.


DIVISION 2. LICENSE

Sec. 58-62. Required.
No person shall engage in the business of collecting, transporting or disposing of refuse of any type within the city without first obtaining a license therefor.

Sec. 58-63. License application.
Licenses shall be issued upon application to the city clerk/licensing agent on forms provided by him/her. The application will require: The name, local address, and telephone number of the hauler/refuse collector; the name, address, and telephone number of the hauler's/refuse collector's main office, if the local office is a subsidiary or branch location; and proof of insurance. The application shall be signed by a duly authorized officer or employee of the hauler/refuse collector. A licensee shall notify the city clerk/licensing agent, in writing, prior to any substantial change in the information provided in the application.

Sec. 58-64. License application fee and renewal fee.
Application or renewal licensing fees shall be paid by the applicant upon submittal of the application to the city clerk/licensing agent. The fees shall be reasonable and shall not exceed the cost of administering this article. A license shall expire on December 31 of each year.

Sec. 58-65. Approval or denial of license.

(a) Upon receipt of a completed application and the application fee, the city clerk/licensing agent has up to 45 days to determine the accuracy of the information included on the application. If the information on the application is found to be accurate, the city clerk/licensing agent shall issue a written notice of approval no later than 45 days after receipt of the application. If any inaccuracies become apparent, the city clerk/licensing agent shall inform the applicant of the inaccuracies by certified mail and request a correction.

(b) A hauler/refuse collector shall provide corrected information for the application, by certified mail, to the city clerk/licensing agent within seven days of receipt of the original request or be
subject to denial of the license by 12 midnight of the seventh day; if such information is not forth
coming. Notice of denial shall be sent to the applicant by certified mail. The notice shall include
the notification of the right of the applicant to request reconsideration of the denial and to have a
hearing thereon before the licensing agent. Any such request for reconsideration shall be filed in
writing with the city clerk/licensing agent within ten days from the date of mailing of the notice of
denial. The hearing shall be noticed and conducted by the city clerk/licensing agent in substantial
accordance with the procedures set forth in section 58-67.
(Ord. 204, §5.04, 1-14-1995)

Sec. 58-66. Suspension and revocation of a hauler license by the local unit.

(a) The local unit may, acting in accordance with section 58-67, suspend or revoke a
hauler's/refuse collector's license to operate within the city limits.

(b) A license may be suspended or revoked for the following reasons:

(1) The failure of the licensee to substantially comply with this article or any other applicable
federal, state, county and local laws and regulations;

(2) Misrepresentations of any material fact contained in the license application; and/or

(3) The failure of licensee to make payment of any municipal civil infraction fine imposed for
violation of this article.

(c) If a hauler's/refuse collector's license is suspended, it will remain suspended for such period of
time as is set by the city council. If a hauler's/refuse collector's license is revoked by the city
council, the city clerk/licensing agent shall not issue a new license until approval has been granted
by the city council.
(Ord. 204, §5.05, 1-14-1995)

Sec. 58-67. Procedure to suspend or revoke the license.

(a) Written notice of public hearing. Written notice of a public hearing to consider suspension or
revocation of a license shall be mailed by certified mail to the licensee at its last known address,
not less than seven days prior to the public hearing at which the suspension or revocation of the
licensee will be considered. The notice shall indicate the date, time, and location of the hearing. It
shall also include a statement of the tentative reasons for the proposed suspension or revocation.

(b) Collector to present and question witnesses. The public hearing shall provide the opportunity
for the hauler/refuse collector to present witnesses and question any adverse witnesses as may
appear at the hearing.

(c) Consideration of evidence. Any suspension or revocation imposed by the local unit shall be
based upon a full consideration of the evidence presented at the public hearing.

(d) Written determination; time limit. The local unit shall have 30 days from the date of the
public hearing to make a determination. Written notice of the determination, along with a statement
of the reasons for the determination shall be mailed by certified mail to the last known address of
the licensee no later than eight days after the city council's decision.
(Ord. 204, §5.06, 1-14-1995)

Sec. 58-68. Transferability of licenses.
A license shall not be transferable or assignable to another.  
(Ord. 204, §5.07, 1-14-1995)

Sec. 58-69. Littering and accumulation.

No paper, lawn cuttings, or rakings, leaves, weeds, ashes or any other refuse material whatsoever shall be thrown or swept into any street, gutter, intake, alley; vacant lot, park, greenbelt, or other property whether public or private. It shall be the duty of every tenant, lessee, owner, or occupant of any property at all times to maintain said premises in a clean and orderly condition, permitting no deposit or accumulation of materials other than those ordinarily attendant upon the day to day use for which said premises are legally intended. It shall be unlawful to bury any animal or vegetable wastes anywhere in the city and it shall be unlawful to deposit, throw, or leave refuse on the premises of any other person.  
(Ord. 204, §6.01, 1-14-1995)

42 State law reference—Littering, MCL 324.8901 et seq.
Chapter 62
SPECIAL ASSESSMENTS

Sec. 62-1. Definitions.
Sec. 62-2. Power of council.
Sec. 62-3. Advisory petition.
Sec. 62-4. Project plans.
Sec. 62-5. Determination by council.
Sec. 62-6. Preparation of roll.
Sec. 62-7. Filing roll.
Sec. 62-10. Final confirmation.
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Sec. 62-17. Determination of actual cost.
Sec. 62-18. Deficiency assessments.
Sec. 62-20. Reassessments.
CHAPTER 62
SPECIAL ASSESSMENTS

Sec. 62-1. Definitions.

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

Cost, when referring to the cost of any improvement, includes the cost of surveys, plans, right-of-way, spreading of rolls, notices, advertising, financing and construction and all other costs incident to the making of such improvement, the special assessments therefor and the financing thereof.

Improvement means any public improvement, any part of the cost of which is to be assessed against one or more lots or parcels of land to be especially benefited thereby, in proportion to the benefit to be derived therefrom.

(Code 2005,§62-1)

Sec. 62-2. Power of council.

The council shall have power to determine by resolution that the whole or any part of the cost or expense of any improvement shall be defrayed by special assessments upon the property especially benefited, in proportion to the benefits derived or to be derived.

(Code 2005,§62-2)

Sec. 62-3. Advisory petition.

The council, in order to ascertain whether or not a reasonable number of property owners to be assessed desire any particular improvement to be made, may request and receive a petition therefor, or may receive such a petition voluntarily presented; but in either event, such petition shall be advisory only and shall not be jurisdictional.

(Code 2005,§62-3)

Sec. 62-4. Project plans.

Before determining to make any improvement, any part of the cost of which is to be defrayed by special assessment, the council shall provide for preparation of plans and specifications therefor and an estimate of the cost thereof, and to file the same with the clerk, together with an engineer's recommendation as to what proportion of the cost should be paid by special assessment and what part, if any, should be a general obligation of the city, the number of installments in which assessments may be paid and the lands which should be included in the special assessment district.

(Code 2005,§62-4)

Sec. 62-5. Determination by council.

(a) Upon the filing of said plans and specifications and recommendations the council may direct the assessor to proceed with the preparation of an assessment roll by resolution. By such resolution the council shall approve the plans and specifications for the improvement; determine the estimated cost thereof; determine what proportion of such costs shall be paid by special assessment upon the property especially benefited and what part, if any, shall be a general obligation of the city; determine the number of installments in which assessments may be paid; designate the district or
land and premises upon which the assessment shall be levied and direct the assessor to prepare a special assessment roll in accordance with the council's determination. The rate of interest to be charged on such installments shall be one percent above the average rate of interest borne by the bonds issued in anticipation of such special assessment. If bonds are not to be issued in anticipation of such special assessment, the rate of interest on such installments shall be as prescribed by the city Charter.

(Code 2005,§62-5)

Sec. 62-6. Preparation of roll.

The assessor shall thereupon prepare a special assessment roll including all lots and parcels of land within the special assessment district designated by the council, and shall assess to each such lot or parcel of land such relative portion of the whole sum to be levied against all the lands in the special assessment district as the benefit to such lot or parcel of land bears to the total benefits to all lands in such district. There shall also be entered upon such roll the amount which has been assessed to the city at large.

(Code 2005,§62-6)

Sec. 62-7. Filing roll.

When the assessor shall have completed such assessment roll, he shall attach thereto, or endorse thereon, his certificate to the effect that said roll has been made by him pursuant to a resolution of the council (giving date of adoption of same) and that in making the assessments therein he has, as near as may be, according to his best judgment, conformed in all respect to the directions contained in such resolution, and to the city Charter and the provisions of this chapter. Thereupon he shall file said special assessment roll with the clerk, who shall present the same to the council.

(Code 2005,§62-7)


a. Upon receipt of such special assessment roll the council shall order it filed in the office of the clerk for public examination; shall fix the time and place when it will meet and review such roll and hear complaints, which meeting shall be held not less than ten days after notice thereof has been sent by the clerk by first class mail to all property owners in the proposed district as shown by the current assessment roll of the city. Such notice shall specify the time and place of such meeting.

b. The assessment roll shall be open to public inspection for a period of seven days before the council shall meet to review the roll and hear complaints. The clerk shall give notice in advance by publication of the opening of the roll to public inspection and of the meeting of the council to hear complaints. If at or prior to the hearing the owners of more than one-half of the property to be assessed shall object in writing to the improvement, the assessment shall not be made without the unanimous vote of the council.

(Code 2005,§62-8)


The council shall meet and review the said special assessment roll at the time and place appointed, or at an adjourned date therefor, and shall consider any written objections thereto. The council may correct said roll as to any assessment or description of any lot or parcel of land, or other errors appearing therein. Any changes made in such roll shall be noted in the council's

43State law reference—MCL 211.741 et seq.
minutes. After such hearing and review the council may confirm such special assessment roll with such corrections as it may have made, if any; or may refer it back to the assessor for revision or may annul it and any proceedings in connection therewith. Also at said hearing or at an adjourned date the council shall determine whether to proceed with the proposed project to be financed by such special assessment. The clerk shall endorse the date of confirmation upon each special assessment roll.
(Code 2005,§62-9)

Sec. 62-10. Final confirmation.

Such roll shall, upon confirmation, be final and conclusive.
(Code 2005,§62-10)

Sec. 62-11. Installments; lien.

All special assessments contained in any special assessment roll, including any part thereof deferred as to payment, shall, from the date of confirmation of such roll, constitute a lien upon the respective lots or parcels of land assessed and until paid shall be a charge against the respective owners of the several lots and parcels of land and a debt to the city from the persons to whom they are assessed. Such lien shall be of the same character and effect as the lien created by the city Charter for city taxes and shall include accrued interest and penalties. No judgment or decree, nor any act of the council vacating a special assessment, shall destroy or impair the lien of the city upon the premises assessed for such amount of the assessment as may be equitably charged against the same, or as by a regular mode of proceeding might be lawfully assessed thereon. All special assessments shall become due upon confirmation of the special assessment roll or in annual installments in number as the council may determine at the time of confirmation and if in annual installments, the council shall determine the first installment to be due upon confirmation or on the following July 1 and subsequent installments shall be due on July 1st of succeeding years.
(Code 2005,§62-11)


The assessment roll shall be transmitted by the clerk to the treasurer for collection immediately after its confirmation. The treasurer may mail statements of the several assessments to the respective owners, as indicated by the records of the assessor, of the several lots and parcels of land assessed, stating the amount of the assessment and the manner in which it may be paid; provided, however, that failure to mail any such statement shall not invalidate the assessment or entitle the owner to an extension of time within which to pay the assessment.
(Code 2005,§62-12)

Sec. 62-13. Early payment

The council may determine that the whole or any part of any such assessment may be paid during a determined period after the date of confirmation of the special assessment roll without interest or penalty.
(Code 2005,§62-14)

Sec. 62-14. Spreading installments.

The first installment shall be spread upon the next city tax roll in a column headed "Special Assessments," together with interest upon all unpaid installments from the date of the confirmation of the roll to July 1 of the year in which such tax roll is made; provided, that any
fraction of a month shall be considered as a full month. Thereafter one installment shall be spread upon each annual tax roll, together with one year's interest upon all unpaid installments; provided, that when an annual installment shall have been prepaid as herein- after provided, then there shall be spread upon the tax roll for such year only the interest upon all unpaid installments.
(Code 2005,§62-14)


After each installment has been placed on the tax rolls, the same shall be collected by the treasurer with the same rights and remedies, and the same penalties and interest, as provided in the Charter for the collection of taxes.
(Code 2005,§62-15)

Sec. 62-16. Advance payment of installments.

After the expiration of the period provided for in section 58-14, any installment which has not been spread upon the tax rolls may be discharged by paying the face amount thereof plus the interest thereon to date of payment. Any person desiring to pay such installment in advance shall first secure the proper statement from the assessor to permit the treasurer to compute the amount to be paid. The treasurer shall report to the assessor all advance payments on installments so that the assessor shall have such information before spreading installments on the next city tax roll.
(Code 2005,§62-16)

Sec. 62-17. Determination of actual cost.

Upon completion of the improvement and the payment of the cost thereof, the city treasurer shall certify to the council the total cost of said improvement, together with the amount of the original roll for said improvement.
(Code 2005,§62-17)

Sec. 62-18. Deficiency assessments.

Should the assessments in any special assessment roll, including the amount assessed to the city at large, prove insufficient for any reason to pay the cost of the improvement for which they were made, then the council shall make additional assessments against the city and the several lots and parcels of land, in the same ratio as the original assessments, to supply the deficiency; but the total amount assessed against any lot or parcel of land shall not exceed the value of the benefits received from the improvement.
(Code 1986, § 1.90)


The excess by which any special assessment proves larger than the actual cost of the improvement and expenses incidental thereto shall be retained or refunded as prescribed by the city Charter.
(Code 2005,§62-19)

Sec. 62-20. Reassessments.

Whenever any special assessment shall, in the opinion of the council, be invalid by reason of irregularity or informality in the proceedings, or if any court of competent jurisdiction shall adjudge such assessment to be illegal, the council shall, whether the improvement has been
made or not, have power to cause a new assessment to be made for the same purpose for which
the former assessment was made. All proceedings on such reassessment and for the collection
thereof shall be conducted in the same manner as provided for the original assessment; and
whenever the assessment, or any part thereof, levied upon any premises has been so set aside, if
the same has been paid and not refunded, the payment so made shall be applied upon the
reassessment and the reassessment shall to that extent be deemed satisfied.
(Code 2005,§62-20)


In addition to any other remedies and without impairing the lien therefor, any delinquent special
assessment, together with interest and penalties, may be collected in an action of assumpsit in
the name of the city against the person assessed, in any court having jurisdiction of the amount.
If in any such action it shall appear that by reason of any irregularities or informalities the
assessment has not been properly made against the defendant or upon the premises sought to be
charged, the court may, nevertheless, on satisfactory proof that expense has been incurred by the
city which is a proper charge against the defendant or the premises in question, render judgment
for the amount properly chargeable against such defendant or upon such premises.
(Code 2005,§62-21)


Special assessments may be imposed prior to construction of the project, during such
construction or after completion of the improvement.
(Code 2005,§62-19)


When any expense shall have been incurred by the city upon or in respect to any single
premises, which expense is chargeable against said premises and the owner thereof under the
provisions of this Code and is not of that class required to be pro-rated among the several lots
and parcels of land in a special assessment district, an account of the labor, material and service
for which such expense was incurred, with a description of the premises upon or in respect to
which the expense was incurred, and the name of the owner, if known, shall be reported to the
treasurer, who shall immediately charge and bill the owner, if known. The council shall, at such
times as it may deem advisable direct the assessor to prepare a special assessment roll covering
all such charges reported to it together with a penalty of ten percent. Such roll shall be filed with
the clerk who shall advise the council of the filing of the same, and the council shall thereupon
set a date for the hearing of objections to such assessment roll. The assessment roll shall be open
to public inspection for a period of seven days before the council shall meet to review the roll
and hear complaints. The city clerk shall give notice in advance by publication of the opening of
the roll to public inspection and of the meeting of the council to hear complaints and shall also
give like notice to the owners of the property affected by first class mail at their addresses as
shown on the current general assessment roll of the city, at least ten days prior to the date of
such hearing. Such special assessments and all interest and charges thereon, shall, from the date
of confirmation of the roll, be and remain a lien upon the property assessed, of the same
character and effect as a lien created by general law for state and county taxes, until paid.
Interest shall be paid on such assessments, when delinquent, from such date after confirmation
as shall be fixed by the council, and such assessments, with penalties and interest, shall be added
by the treasurer to the next general city tax roll or general county and school tax roll, as shall be
convenient, and shall thereafter be collected and returned in the same manner as general city
taxes.
(Code 2005,§62-23)
Chapters 63-65

RESERVED
Chapter 66
STREETS, SIDEWALKS AND OTHER PUBLIC PLACES

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CHAPTER 66
STREETS, SIDEWALKS AND OTHER PUBLIC PLACES

ARTICLE I. IN GENERAL


ARTICLE II. STREETS

DIVISION 1. GENERALLY

Sec. 66-16. Definitions.

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

Excavate means to dig into or in any way remove or physically disturb or penetrate any part of the street or right-of-way.

Person means any natural or corporate person, business association or other business entity including, but not limited to, a partnership, a sole proprietorship, a political subdivision, a public or private agency of any kind, a utility, a successor or assign of any of the foregoing, or any other legal entity which has or seeks to have equipment located in any right-of-way.

Street or right-of-way means the surface and space above and below all land lying between property lines on either side of public roadways, streets, alleys and boulevards and includes lawn extensions, public sidewalks and other dedicated right-of-ways for travel purposes or utility easements in which the city has an interest.

(Code 2005, §66-16)

Sec. 66-17. Excavation and obstruction of right-of-ways.

No person shall make any excavation in, or cause any damage to, or place, or cause to be placed, any tangible property or objects, including without limitation, pipes, cable, fiber optics, or conduit, in any street or right-of-way; except under conditions and in the manner permitted in this chapter or pursuant to federal or state law or regulation. Except for any damage caused to the street or right-of-way the following situations shall not be deemed to be a violation of this section: Such temporary obstructions as may be incidental to the expeditious movement of tangible property or objects to and from abutting premises.

(Code 2005, §66-17)

Sec. 66-18. Permits and bonds.

(a) Where permits are authorized in this chapter, they shall be obtained upon such forms as the city council shall prescribe, and there shall be such a fee for each permit as set from time-to-time by resolution or for failure to comply with this chapter, rules and regulations adopted pursuant hereto and the lawful orders of the building inspector or a duly authorized representative, and shall be valid only for the period of time endorsed thereon. Application for a permit under the provisions of this article shall be deemed an agreement by the applicant to promptly complete the work permitted, observe all pertinent laws and regulations of the city in connection therewith, repair all damage done to the street surface and installations on, over or within such street, including trees, and protect and save harmless the city from all damages or actions at law that may arise or may be
brought on account of injury to persons or property resulting from the work done under the permit or in connection therewith. Where liability insurance policies are required to be filed in making application for a permit, they shall be in an amount set by resolution of the city council from time-to-time.

(b) A duplicate executed copy or photo static copy of such insurance policy, approved as to form by the city attorney shall be filed with the city clerk. Where cash deposits are required with the application for any permit hereunder, such deposit shall be set by resolution of the city council from time-to-time and such deposit shall be used to defray all expenses to the city arising out of granting of the permit and work done under the permit or in connection therewith. Six months after the completion of the work done under the permit, any balance of such cash deposit unexpended, shall be refunded. In any case where the deposit does not cover all costs and expenses of the city, the deficit shall be paid by the applicant.

(Code 2005,§66-18)

Sec. 66-19. Street openings.

No person shall make any excavation or opening in or under any street without first obtaining a written permit from the building inspector or the official authorized by the city council. No permit shall be granted until the applicant has posted a cash deposit and filed a liability insurance policy as required by section 66-18.

(Code 2005,§66-19)

Sec. 66-20. Emergency openings.

The superintendent may, if public safety requires immediate action, grant permission to make a necessary street opening in an emergency, provided that a permit shall be obtained on the following business day and the provisions of this article shall be complied with.

(Code 2005,§66-20)


All trenches in a public street or other public place, except by special permission, shall be backfilled in accordance with regulations adopted pursuant to this chapter. Any settlement shall be corrected within eight hours after notification to do so.

(Code 2005,§66-21)

Sec. 66-22. Sidewalk vaults.

Openings through the sidewalk for the delivery of fuel when lawfully in existence, shall not be greater than 30 inches in diameter, shall be circular in form, and shall be effectually closed when not in actual use by an iron cover set flush within the surface of the sidewalk, level with the sidewalk and securely locked in place. All openings in the sidewalk for the admission of light and air shall be closed and protected either by substantial iron gratings or illuminating pavement of a design and so placed as to be satisfactory to the superintendent.

(Code 2005,§66-22)

Sec. 66-23. Utility poles.

Utility poles may be placed in such streets as the superintendent shall prescribe and shall be located thereon in accordance with the directions of the superintendent. Such poles shall be removed or relocated as the superintendent shall from time to time direct.

(Code 2005,66-23)
Sec. 66-24. Maintenance of installations in streets.

Every owner of, and every person in control of, any estate hereafter maintaining a sidewalk vault, coal hole, manhole, or any other excavation, or any post, pole, sign, awning, wire, pipe, conduit or other structure in, under, over or upon, any street which is adjacent to or a part of his estate, shall do so only on condition that such maintenance shall be considered as an agreement on his part with the city to keep the same and the covers thereof, and any gas and electric boxes and tubes thereon, in good repair and condition at all times during his ownership or control thereof; and to indemnify and save harmless the city against all damages or actions at law that may arise or be brought by reason of such excavation or structure being under, over, in or upon the street, or being unfastened, out of repair or defective during such ownership or control.
(Code 2005,§66-24)

Sec. 66-25. Additional regulations.

The building inspector or an official designated by the city council may make additional regulations pertaining to openings and excavations in the streets, curb cuts, street obstructions, and house moving, which regulations shall be subject to the approval of the city council. No person shall fail to comply with any such regulations.
(Code 2005,§66-25)

Sec. 66-26. Removal of encroachment.

Encroachments and obstructions in the street may be removed and excavations refilled and the expense of such removal or refilling charged to the abutting land owner when made or permitted by him or suffered to remain by him, otherwise than in accordance with the terms and conditions of this article. The procedure for collection of such expenses shall be as prescribed in chapter 4 of this Code for single lot assessments.
(Code 2005,§66-26)

Sec. 66-27. Dumping snow.

The pushing, dumping, or depositing of snow or ice from any privately owned premises into or upon any street in the city shall constitute a violation of this Code and shall be deemed an encroachment subject to the provisions of section 66-26.
(Code 2005,§66-27)

Sec. 66-28. Temporary street closings.

The public works administrator shall have authority to temporarily close any street, or portion thereof, when he shall deem such street to be unsafe or temporarily unsuitable for use for any reason. He shall cause suitable barriers and signs to be erected on said street, indicating that the same is closed to public travel. When any street or portion thereof shall have been closed to public travel, no person shall drive any vehicle upon or over said street except as the same may be necessary incidentally to any street repair or construction work being done in the area closed to public travel. No person shall move or interfere with any sign or barrier erected pursuant to this section without authority from the engineer.
(Code 2005,§66-28)

Secs. 66-29-66-43. Reserved.

DIVISION 2. CURB CUTS
Sec. 66-44. Curb cuts.

Any person who shall construct, remove, enlarge, relocate or otherwise substantially modify a driveway approach within the public street right-of-way shall obtain approval of the proposed work by the superintendent or his designated representative, pay the permit fee and obtain a permit therefor. Any structure, driveway, parking area or vehicle area which lies outside the public street right-of-way shall be construed to be regulated by this article to the extent that it affects the safe and convenient use of the public right-of-way.
(Code 2005,§66-44)

Sec. 66-45. Standard specifications.

The city shall establish standard specifications for the layout and construction of driveway approaches and related areas and structures. Such standard specifications shall be established by resolution of the city council, and shall be kept on file in the office of the city clerk.
(Code 2005,§66-45)

Sec. 66-46. Conformance.

Work on any driveway approach or related area or structure shall conform to the official standard specifications as authorized by this article. A permit for such work shall be issued in accordance with established regulations upon payment of a permit fee as shall from time to time be established in said specifications.
(Code 2005,§66-46)

Sec. 66-47. Access control.

When, in the interest of public safety, the chief of police finds that a specific turning movement to or from a driveway to a public street unreasonably interferes with pedestrian or vehicular traffic, such turning movement may be prohibited by written orders of the chief of police and signs posted stating such prohibition.
(Code 2005,§66-47)

Sec. 66-63. Sidewalk obstructions.

No person shall occupy any street with any materials or machinery incidental to the construction, demolition or repair of any building adjacent to said street, or for any other purpose, without first obtaining a permit from the superintendent and posting a cash deposit and filing an insurance policy as required by section 66-18.
(Code 2005,§66-63)

Sec. 66-64. Barricade or guard.

Any permittee under section 66-63 shall erect a barricade, or post a guard, clearly warning persons using the public property, whether pedestrian or not, of the existence of danger.
(Code 2005,§66-64)

Sec. 66-65. Warning lights.

Any such barricades shall be clearly lighted from sunset to sunrise, and any guard shall have a warning device clearly visible during the day and night for the purpose of warning the public.
(Code 2005,§66-65)
Sec. 66-66. Walkway

a. Height. A walkway not less than four feet wide shall be maintained on the sidewalk in front of any building site during construction, alteration or demolition unless the city authorizes the sidewalk to be fenced and enclosed. Adequate signs and railings shall be provided to direct the pedestrian traffic.

b. Railings. Railings shall be substantially built, of new material having a nominal size of at least two inches by four inches, railings shall be at least three feet six inches in height and when adjacent to excavation shall be provided with a midrail. Fences shall be solid and substantially built, be not less than eight feet above grade in height and be placed on the side of the walkway nearest to the building site.

c. Fencing. Fences shall extend the entire length of the building site and shall be returned to the building line. Openings in such fences shall be protected by doors which are normally kept closed. All fences shall be provided with a two-inch by four-inch plate, top and bottom, and shall be well braced, the fence material shall be a minimum of three-fourths-inch boards or one-quarter inch plywood. Plywood fences shall conform to the following requirements:

1. Plywood panels shall be bonded with an adhesive identical to those for exterior plywood.

2. Plywood one-quarter inch or 5/16 inch in thickness shall have studs spaced not more than two feet on center.

3. Plywood three-eighths inch or one-half inch in thickness shall have studs spaced not more than four feet on center, provided a two inch by four inch stiffener is placed horizontally at the mid height when the stud spacing exceeds two feet on center.

(Code 2005,§66-66)

Sec. 66-67. Canopy.

1. The protective canopy shall have a clear height of eight feet above the walkway. The roof shall be tightly sheathed.

2. In case of violation of sections 66-64 to 66-67 the city superintendent may post a stop work sign upon the offending premises and the said person in violation shall forthwith correct the same and in default thereof the city superintendent may forthwith correct the violations and the costs thereof shall be charged against the violator.

(Code 2005,§66-67)

Sec. 66-68. Safeguards.

All openings, excavations and obstructions shall be properly and substantially barricaded and railed off, and at night shall be provided with prescribed warning lights. Warning lights perpendicular to the flow of traffic shall not be more than three feet apart, and parallel to the flow of traffic not over 15 feet apart.

(Code 2005,§66-68)

Sec. 66-69. Shoring excavations.
All openings and excavations shall, where necessary, be properly and substantially sheeted and braced as a safeguard to workmen and to prevent cave-ins or washouts which would tend to injure the thoroughfare or sub-surface structure of the street.
(Code 2005,§66-69)

Secs. 66-70-66-84. Reserved.

DIVISION 4. HOUSE MOVING

Sec. 66-85. Permit.

No person shall move, transport or convey any building, machinery, truck or trailer, more than eight feet eight inches wide or higher than thirteen feet six inches above the surface of the roadway, or longer than 50 feet, into, across, or along any street, or other public place in the city without first obtaining a permit from the building inspector or official designated by the city council. The applicant shall file the written clearances from the light, telephone, gas and water utilities, stating that all connections have been properly cut off, and where necessary, all obstructions along the proposed route of moving will be removed without delaying moving operations. In addition, clearance shall be obtained from the police department and fire department approving the proposed route through the city street and the time of moving, together with an estimated cost to the police department due to the moving operations. The applicant shall deposit with the city the total estimated cost to the police department and department of public works, plus a cash deposit as required by section 66-18, together with a liability insurance policy as set by resolution of the city council.
(Code 2005,§66-85)

Sec. 66-86. Fee.

When the object to be moved is a building, a permit fee in an amount established by resolution of the city council from time-to-time shall be paid before the permit is issued.
(Code 2005,§66-86)

Sec. 66-87. Prohibited deposits.

No person shall deposit, place or permit to be deposited or placed on any street, alley, sidewalk or crosswalk or public way in the city:

(a) Any rocks, sand, concrete, rubble or similar building materials.
(b) Any garbage.
(c) Any dead animals, fowl or fish.
(d) Any explosives, highly inflammable materials or chemicals which could cause explosions.
(e) Any leaves, garbage, refuse, paper, rubbish, debris, or other solid waste.
(Code 2005,§66-87)

Sec. 66-88. Pouring or spilling oil on pavement.

No person shall pour or spill or permit to drip, upon any pavement laid on any street, alley or public place in the city, any kerosene, benzene or other similar oil or oily substance or liquid.
(Code 2005,§66-88)

Sec. 66-89. Deposit of injurious matter on streets.
No person shall place, distribute or deposit or cause to be placed, distributed or deposited, in or upon any public street, alley, sidewalk or public place within the city limits, or in or upon any public or private driveway therein, any tacks, nails, glass or other substance or material whatsoever, having a necessary or direct tendency to injure the tires of any automobile, bicycle or other vehicle. (Code 2005, §66-89)

Sec. 66-90. Draining water or other fluids into streets.

No person shall drain, from any building or premises owned or occupied by him, by means of pipes or any other device whatever, water or any other fluids to and upon any portion of the public streets of the city. (Code 2005, §66-90)

Sec. 66-91. Removal of obstructions.

In case any person who shall have caused the same shall neglect or refuse to remove any obstruction, encumbrance, encroachment, merchandise, snow, ice, rubbish, solid waste, oil or other material or liquid regulated by sections 66-87 through 66-90 from the streets or walks in front of the lot owned or occupied by him, or from the alley adjacent thereto, after having been notified so to do at the direction of the chief of police or other authorized officer, the city may, if it shall deem it for the public interest, cause the same to be removed at once, and such obstruction shall be deemed an encroachment subject to the provisions of section 66-26. (Code 2005, §66-91)


ARTICLE III. SIDEWALKS

Sec. 66-107. Compliance with chapter and rules.

All sidewalks, crosswalks or driveways constructed on any street, alley or other public place within the limits of the city shall be laid or constructed as required by this article and any other applicable ordinance or resolution of the city and by the rules and specifications adopted by the department of public works and approved by the city council. (Code 2005, §66-107)

Sec. 66-108. Construction, permit and bond.

No person, except the city, shall construct any sidewalk, crosswalk or driveway on any street, alley or other public place, without first obtaining a permit. The permit shall be available through the city clerk and the fee for each permit shall be paid as provided by resolution of the council. (Code 2005, §66-108)

Sec. 66-109. Construction, reconstruction or repair of sidewalks by city.

(A) Declaration by resolution. When the city council shall determine it is necessary to construct, reconstruct or repair any sidewalk, they may so declare by resolution, stating the improvement and what portion of the expense shall be paid by the owner of the property abutting the sidewalk and what part, if any, has been or will be appropriated from the general funds and other sources of the city or shall be borne by the city, and shall designate the location of said sidewalk. The council
shall provide that notice be given to the abutting property owner or owners who shall bear their share of the cost thereof as determined by the council.

(B) Notice. Within two weeks after the adoption by the city council of a resolution as set forth in the preceding subsection, the city clerk shall notify the owners of property abutting upon, or immediately adjacent to the sidewalk which it is proposed to construct, reconstruct or repair, of the necessity for making such improvement. Notice shall be given by personal service of such notice or by mailing and by one publication in a newspaper published and circulated in the city.

(C) Special assessment procedure. The procedure for construction, reconstruction or repair of any sidewalk in a public way in the city may also be done by special assessment procedure, and shall be done by special assessment procedure where sidewalk is replaced or constructed in connection with street improvement, and/or curbs and gutters.

(D) Method of performance. The city may have the work done by the public works department or may let contracts to the lowest responsible bidder for such work.

(Code 2005,§66-109)

Sec. 66-110. Request by property owner.

Any property owner wanting sidewalks constructed, reconstructed or repaired may choose to arrange for the work to be done himself. The property owner or his contractor shall obtain a permit therefor from the city clerk as provided herein, and the work must meet the specification standards of the city and upon certification by the public works superintendent of compliance therewith, and at its discretion, the city council may reimburse the property owner up to 50 percent of the reasonable cost of the construction, reconstruction or repair, as determined by resolution of the city council.

(Code 2005,§66-110)

Sec. 66-111. Construction requirements.

All concrete sidewalks shall meet the standard construction requirements established by the city council.

(Code 2005,§66-111)

Sec. 66-112. Width and lines.

All sidewalks hereinafter constructed shall meet standard construction requirements established by the city council.

(Code 2005,§66-112)

Sec. 66-113. Improper installation.

Any sidewalk installed contrary to standard construction requirements established by the city council shall be removed and replaced in conformity therewith, by the owner or person having possession of the premises, within 30 days of delivery to the owner or person in possession of the premises of a notice, signed by the mayor of such defective construction, and in case of failure by the owner or person in possession of the premises to so remove and replace, the city may do so and the expense thereof shall be chargeable against the owner of the premises and shall be a lien on the premises and the lien may be foreclosed by the city as in the case of foreclosure of any delinquent tax assessment on the premises, or the city may collect the said expense by suit in any court of competent jurisdiction.

(Code 2005,§66-113)

Sec. 66-114. Penalty for violation of article.
Violation of this article, except as otherwise set forth, shall constitute a misdemeanor punishable by a fine of $500.00, 90 days in jail, or both.
(Code 2005, §66-114)
Chapter 70

44TRAFFIC AND VEHICLES*

Article I. In General

Sec. 70-1. Michigan Vehicle Code.
Secs. 70-2-70-15. Reserved.

Article II. Uniform Traffic Code

Sec. 70-16. Code Adopted.(Ordinance 270; 4/22/2019)
Sec. 70-17. References in Code. (Ordinance 270; 4/22/2019)
Sec. 70-18. Copies to be Available.
Sec. 70-20. Penalties. (Ordinance 270; 4/22/2019)
Secs. 70-21-70-35. Reserved.

Article III. Parking Violations Bureau Established.

Sec. 70-36. Established.
Sec. 70-37. Administration.
Sec. 70-38. Jurisdiction.
Sec. 70-39. Procedure.
Sec. 70-40. Violation notice.
Sec. 70-41. Schedule of offenses and fines for traffic code civil
Sec. 70-42. Subsequent violations in one year.
Sec. 70-43. Schedule of offenses and fines for other civil infractions.
Sec. 70-44. Late payment penalty and towing of vehicles.
Sec. 70-45.-70-50. Reserved.

Article IV. No Parking in Front Yard (Ordinance No. 254)

Sec. 70-51. Hours When Parking on Streets is Prohibited; Posting.
Sec. 70-52. Parking on Street for Certain Purposes Prohibited.
Sec. 70-53. Parking in Front Yard of Residence Prohibited Unless Excepted.
Sec. 70-54. Penalty.

44 State law reference—Michigan Vehicle Code, MCL 257.1 et seq.;
general powers of local authorities, MCL 257.605, 257.606, 257.610
CHAPTER 70
TRAFFIC AND VEHICLES

ARTICLE I. IN GENERAL

Sec. 70-1. Michigan Vehicle Code.

(a) Adoption by reference. The city does hereby adopt by reference the Michigan Vehicle Code (MCL 257.1 et seq.) in effect on May 1, 2000, and any amendment thereto subsequently made law.

(b) Numbering to remain the same. The sections and subsections of this section shall be the same as and shall be designated for all purposes in the same manner as sections of the Michigan Vehicle Code.

(c) Penalties. Violation of this section shall be punishable by the same penalties as under the Michigan Vehicle Code except where prohibited by law. In that situation, a violation which is a misdemeanor is punishable by a fine not to exceed $500.00, incarceration for not more than 93 days in the county jail, or both.

(d) Repealer; conflicting provisions. Where this chapter is in conflict with the Michigan Vehicle Code, it is repealed and is of no further force and effect. Provisions of this chapter not in conflict with the Michigan Vehicle Code shall remain in full force and effect. All traffic control orders shall remain in full force and effect. All other ordinances or parts thereof in conflict herewith are hereby repealed and shall be of no further force and effect.

(Code 2005, §70-1)

Secs. 70-2-70-15. Reserved.

ARTICLE II. UNIFORM TRAFFIC CODE

(Ordinance No. 270 effective April 22, 2019)

Sec. 70-16. Code Adopted.

The Uniform Traffic Code for Cities, Townships and Villages as promulgated by the Director of the Michigan Department of State Police pursuant to the Administrative Procedures Act of 1969, 1969 PA 306, MCL 24.201 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.

(Ord. 270; eff. 4/22/2019)

Sec. 70-17. References in Code.

References in the Uniform Traffic Code for Cities, Townships and Villages to a "governmental unit" shall mean the City of Galesburg.

(Ord. 270; eff. 4/22/2019)

Sec. 70-18. Copies to be Available.

The city clerk, having published the ordinances adopting said Uniform Traffic Code in the manner required by law and having published supplementary notices setting forth the purpose of the said uniform traffic code and of the fact that complete copies of the code are available at the

45 State law reference—Uniform Traffic Code, MCL 24.201 to 24.328
office of the city clerk for inspection by and distribution to the public at all times, shall maintain copies in accordance with such supplementary notices.

(Code 2005, §70-18)


The following sections and subsections of the Uniform Traffic Code for Cities, Townships and Villages are hereby amended or deleted as set forth and additional sections and subsections are added as indicated. Subsequent section numbers used in this chapter shall refer to the like numbered sections of the Uniform Traffic Code.

Section 2.59 added to read:

Sec. 2.59. Current Regulations.

All intersection stops and yield right-of-way requirements, regulations on stopping, standing or parking; prima facie speed limits; one-way streets, road- ways and alleys; crosswalks; restricted turns; through streets; play streets; angle parking zones; all-night parking restrictions; curb loading zones; public carrier stands; parking meter zones and spaces; weight restrictions; no passing zones; traffic control devices and traffic control orders heretofore establishment and effective on the effective date of this Code, shall be deemed established hereunder and shall remain effective until rescinded or modified as herein provided.

Sec. 5.14c. After section 5.14b add section 5.14c as follows:

Sec. 5.14c. Exhibition Driving.

(a) Any person who shall engage in any exhibition driving of a motor vehicle as herein defined, upon any highway, or any other place open to the general public, including any area designated for the parking of motor vehicles, shall be punished, upon conviction, as provided in section 9.3 of this ordinance.

(b) Exhibition driving is defined as the driving of a motor vehicle in such an unusual manner or out of the usual flow of traffic, whether or not other traffic is present, so as it is likely to attract the attention of the public, whether or not there is anyone present, or it shall consist of any two or more of the following acts:

1. Rapid acceleration;

2. Squealing, peeling or burning of the tires;

3. The swaying of a motor vehicle from side to side, commonly referred to as "fishtailing ;

4. Racing or running the engine of a motor vehicle at such high revolutions per minute combined with the engaging of the gears causing excessive or unusual noise;

5. Unnecessary and excessive changing of lanes;

6. The emission of any unreasonably loud or raucous or disturbing and unnecessary noise from the engine or exhaust system of any motor vehicle.

Section 8.10(u) added after 8.10(t) as follows:
(u) Between the curb and drainage line and sidewalk or any grassy parkway on the public right-of-way, unless expressly permitted by order of the traffic engineer with the consent of the city council by motion.

Section 8.22a added to read:

Sec. 8.22a. All Night Parking.

1. It shall be unlawful for any person to park or allow to remain standing on any of the streets, roadways, or city rights-of-way, or city parking lots other than designated areas in the city, any motor vehicle between the hours of 3:00 a.m. and 6:00 a.m. local time, from October 15th to April 15th of each year.

2. A person who violates this section is responsible for a civil infraction.

(Code 2005. §70-19)

Sec. 70-20. Penalties.

The penalties provided by the Uniform Traffic Code for Cities, Townships, and Villages are adopted by reference.

(Ord. 270; effect. 4/22/2019)-(new)

Secs. 70-21-70-35. Reserved.

46ARTICLE III. PARKING VIOLATIONS BUREAU*

Sec. 70-36. Established.

A parking violations bureau, for the purpose of accepting civil infraction admissions in parking violation cases within the city, and collecting and retaining civil fines and costs as prescribed by ordinance is hereby established. The parking violations bureau shall be under the supervision and control of the city clerk.

(Code 2005,§70-36)

Sec. 70-37. Administration.

The city clerk shall, subject to the approval of the city council, establish a convenient location for the parking violations bureau, appoint qualified city employees to administer the bureau and adopt rules and regulations for the operation thereof.

(Code 2005,§70-37)

Sec. 70-38. Jurisdiction.

Only civil infraction admissions as established by city ordinance or council resolution shall be accepted by the parking violations bureau. The fact that a particular infraction is scheduled shall not entitle the alleged violator to disposition of the infraction at the bureau. If the alleged violator does not admit the infraction, or the admission is not disposed of at the bureau, a citation shall issue and the procedure for disposition shall be as provided by statute and ordinance in the case of other civil infractions.

(Code 2005,§70-38)

46 State law reference—Parking violations bureau, MCL 600.8395
Sec. 70-39. Procedure.

No violation may be settled at the parking violations bureau except at the specific request of the alleged violator. No civil fine for any violation shall be accepted from any person who denies having committed the infraction and in no case shall the person who is in charge of the bureau determines, or attempts 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 civil infraction at the parking violations bureau. 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 in any way diminish the rights, privileges and protection accorded to him by law.
(Code 2005,§70-39)

Sec. 70-40. Violation notice.

The issuance of a traffic ticket or notice of violation by a police officer of the city shall be deemed an allegation of a parking violation. This notice shall also include violations of section 82-41 parking regulations. Such traffic ticket or notice of violation shall indicate the length of time in which the person to whom the same was issued must respond before the parking violations bureau. It shall also indicate the address of the bureau, the hours during which the bureau is open, the amount of the civil fine scheduled for the infraction for which the ticket was issued.
(Code 2005,§70-40)

Sec. 70-41. Schedule of offenses and fines for traffic code civil infractions.

City council shall adopt by resolution a schedule of civil fines and costs imposed for parking violations issued under section 70-40 of this chapter. The schedule of civil fines and costs previously set by ordinance or prior resolution of city council shall remain in effect until the effective date established by city council in any subsequently adopted resolution.
(Code 2005,§70-41)

Sec. 70-42. Subsequent violations in one year.

All civil fines set out in the schedule of civil fines and costs adopted from time to time by city council shall be doubled for a second violation within one year and tripled for a third violation in one year.
(Code 2005,§70-42)

Sec. 70-43. Schedule of offenses and fines for other civil infractions.

City council may; by resolution, identify additional offenses or violations under the City Code which may be paid at the parking violations bureau in accordance with the schedule of civil fines and costs adopted for those violations.
(Code 2005,§70-43)

Sec. 70-44. Late payment penalty and towing of vehicles.

All civil fines and costs set forth in the schedule shall be paid within ten days of the infraction. In addition to the late payment penalty established in the schedule of civil fines and costs, the city may have a motor vehicle towed for those infractions so designated, or may pursue any remedy allowed by law if any violation notice remains unpaid for more than 30 days.
(Code 2005,§70-44)
Article IV, No Parking in Front Yard

Sec. 70-51. Hours When Parking on Streets is Prohibited; Posting.

1. It shall be unlawful for any person to park or all to leave standing upon a public street of the City an motor vehicle between the hours of 3:00 a.m. and 6:00 a.m. FROM OCTOBER 15th OF ANY GIVEN YEAR THRU APRIL 15TH OF THE FOLLOWING YEAR.

2. Notices of this restriction on public street parking shall be posted within the City.
   (Ordinance No. 254, effective 3/17/2009)

Sec. 70-52. Parking on Street for Certain Purposes Prohibited.

A person shall not park a vehicle on any street for any of the following reasons:

1. Displaying the vehicle for sale.
2. Repairing or maintaining the vehicle, except those repairs necessary to remove the vehicle from the street.
3. Advertising.
4. Selling merchandise from a vehicle.
   (Ordinance No. 254, effective 3/17/2009)

Sec. 70-53. Parking in Front Yard of Residence Prohibited Unless Excepted.

A person shall not park a vehicle in the front yard of a residence unless the vehicle is parked on a recognizable improved driveway or parking pad connected to a driveway or an unimproved driveway which is visibly recognizable as a driveway. No vehicle may park on the front lawn of any residence.
   (Ordinance No. 254, effective 3/17/2009)

Sec. 70-54. Penalty.

Any person convicted of violating this Article shall be guilty of a civil infraction punishable as prescribed in this Code.
   (Ordinance No. 254, effective 3/17/2009)
CHAPTER 71
LICENSES

Sec. 71-1. Definition.
Sec. 71-2. License Required.
Sec. 71-3. Multiple Licenses Required.
Sec. 71-4. State Licensed Business.
Sec. 71-5. Solicitation.
Sec. 71-6. License Term and Fees.
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Sec. 71-10. Bonds.
Sec. 71-11. Exemption from fee.
Sec. 71-12. Suspension or Revocation.
Sec. 71-13. Issuance of License.
Sec. 71-14. Denial of a License.
Sec. 71-15. Fees.
Sec. 71-16. License Reissuance.
Sec. 71-17. Exhibition of a License.
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Sec. 71-19. Displaying Invalid License and Surrender of Invalid License.
Sec. 71-20. Transfer, Alteration, or Misuse of a License.
Sec. 71-21. Revocation.
Sec. 71-22. Curb Stands Prohibited.
Sec. 71-23. Curb Service Prohibited.
Sec. 71-25. Cause Defined.
Sec. 71-26. Late Application Penalty.
CHAPTERS 71
LICENSES

Sec. 71-1. Definition.
As used in this Title, the following words and phrases shall have the meanings ascribed to them in this section:

(1) "License" shall mean any license, permit, certificate or any other type of approval required by this Title.
(Code 1986, §7.1)

Sec. 71-2. License Required.
No person, as owner, agent, manager, employee, or otherwise, shall operate, conduct, maintain, or otherwise be engaged in the carrying on of any trade, business, profession, occupation, amusement, activity, or privilege for which any license is required by any provision of this Code without first obtaining a license from the City in the manner provided for herein.
(Code 1986, §7.2)

Sec. 71-3. Multiple Licenses Required.
The granting of a license or permit to any person operating, conducting, maintaining, or otherwise carrying on or engaging in any trade, business, licensed shall not relieve the person so licensed from the necessity of securing such other licenses or permits as may be required by this Code, except as specifically provided elsewhere in this Code.
(Code 1986, §7.3)

Sec. 71-4. State Licensed Business.
The fact that a license permit has been granted to any person by the State of Michigan to engage in the operation, or conduct or carrying on of, any trade, business, profession, occupation, amusement, activity or privilege shall not exempt such person from the necessity of securing a license or permit from the City if such a license or permit is required by this Code. No license required by this Code shall be issued to any person who is required to have a license or permit from the State of Michigan until such person shall submit evidence of having obtained the required State license or permit.
(Code 1986, §7.3)

Sec. 71-5. Solicitation.
Unless otherwise provided for by law or Ordinance or in this Code, every person required to obtain a license as provided for in this Code shall make application to the City Clerk for such license on forms provided or prescribed by the City Clerk. The application shall require such information to be provided as will enable the Clerk to determine whether the applicant, if licensed, will serve the public in a fair, honest, safe and competent manner and in compliance with the requirements of this Code and all other applicable federal, state and local laws, Ordinances, rules and regulations. The person making application for any license shall state under oath or affirmation that the information provided on such application is true and shall provide, under oath or affirmation, such other information relative to the granting of the license or to the applicant's qualifications as the Clerk may require. No person shall make a false statement or false representation on any license application or in connection with the application for any license provided for in this Code.
(Code 1986, §7.5)

Sec. 71-6. License Term and Fees.
1) The license year applicable to all annual licenses shall begin on July 1 of each year and shall end on June 30 of the following year.
(2) Any license not issued prior to the beginning of a license year shall be issued for the balance of the license year. The fee charged for each license whether for a full or partial license year, shall be the fee provided for in Chapter 72 of this Code.

(3) Where provision is made in Chapter 72 or elsewhere in this Code for the issuance of a license for a period of less than one (1) year, the effective date of such a license shall be as provided on the face of the license by the City Clerk and such license shall be in effect only for the period provided on the face of the license by the Clerk. In the absence of a provision by the Clerk on the face of a license, the license shall be valid only on the date upon which it is issued.

(4) Any person duly licensed on the effective date of this Code shall be deemed licensed hereunder for the balance of the current license year.

(Code 1986, §7.6)

Sec. 71-7. Conditions for Issuance.
No license shall be issued to any applicant unless the applicant has complied with all the provisions of this Code and all provisions of the laws of the State of Michigan applicable to the trade, business, profession, occupation, amusement, activity or privilege for which the license is sought have been complied with.

(Code 1986, §7.7)

Sec. 71-8. Agreement by Applicant.
All licenses are issued subject to the following conditions, which shall be noted on the application form,

(1) The applicant agrees to permit inspection of the licensed premises and/or activity at reasonable times by any properly identified officer or employee of the City.

(2) The applicant agrees to the temporary suspension of the license without prior notice or hearing when, in the judgment of the appropriate officials, such a suspension is necessary to preserve the public health, safety, or welfare.

(3) The applicant agrees that he or she will keep aware of and comply with all applicable federal, state and local laws, Ordinances, rules and regulations during the term of the license.

(4) The applicant agrees that he or she will not engage in the licensed trade, business, profession, occupation, amusement, activity or privilege at any time after the license has expired, without having been reissued, or at any time when the license is suspended or revoked.

(5) No license shall be issued unless and until the applicant has paid all personal property taxes assessed him or her and unless the applicant has paid all other debts due and owing to the City.

Each applicant shall sign a statement indicating that he or she has read the foregoing and agrees with its provisions prior to the issuance of any license.

(Code 1986, §7.8)

Sec. 71-9. Certification Required.
In each case where the certification by any of the following officials or employees shall be required prior to the issuance of the license by the City Clerk, such certification shall be based upon such inspection or investigation as may be deemed appropriate by the officer or employee named and shall indicate a determination that the requirements following the official's or employee's title have been complied with.
(1) Fire Chief - That the provisions of the Fire Code and all other applicable regulations and requirements of the City and the State of Michigan relative to fire safety have been complied with.

(2) Police Chief - That the criminal history of the applicant, if any, has been checked and that there is no indication that the applicant cannot serve the public in the licensed area in a fair, honest and open manner.

(3) Health Officer - Which all applicable health and sanitary requirements of the City, County and State have been complied with.

(4) Building Official - That the building requirements of this Code and of the State of Michigan have been complied with and that the zoning and other land use provisions of this Code will permit the licensed activity at its proposed location.

(Code 1986, §7.9)

Sec. 71-10. Bonds.
Where a provision of this Code requires that the applicant for any license or permit furnish a bond, such bond shall be furnished in an amount deemed adequate by the proper City officer, or, where the amount thereof is specified in the schedule of fees and bonds set out in Chapter 72 or elsewhere in this Code, in the amount so required. The form of such bond shall be acceptable to the City Attorney.

In lieu of a bond, an applicant for a license or permit may furnish one or more policies of insurance in the same amounts and providing the same protection as called for in any such bond; any such policies of insurance shall be approved as to substance by the City official issuing said license or permit and as to form by the City Attorney.

(Code 1986, §7.10)

Sec. 71-11. Exemption from Fee.
No license fee shall be required from any person exempt from such fee by state or federal law. Such persons shall comply with all other provisions of this Code.

(Code 1986, §7.11)

Sec. 71-12. Suspension or Revocation.

(1) Any license issued by the City may be suspended or revoked by the City Clerk for cause as herein defined. Any permit issued by the City may be suspended or revoked by the issuing officer or authority for cause as herein defined. In either case, a hearing shall be scheduled to be held by the Mayor or the Mayor's designee or the issuing authority. Depending upon the necessity for prompt action, the hearing shall be held in accordance with one (1) of the following provisions:

(a) If there is no immediate threat to the public health, safety or welfare, the hearing shall be held to determine whether the license or permit should be suspended or revoked. The holder of the license or 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 license or 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.
(b) If there is an immediate threat to the public health, safety, or welfare, the license or permit may be suspended prior to the hearing. If a license or permit is suspended prior to the hearing, the hearing shall be commenced as soon as is practical, but in no case more than Ten (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 license or permit. The holder of the license or 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 license or 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.

(2) In any hearing held pursuant to the provisions of this Chapter, 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.

(3) Any person dissatisfied with the decision of the Mayor 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 (7) days of the date of the decision to be appealed.

The City Council shall schedule a hearing on the appeal within fifteen (15) 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 or a committee thereof, 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 City Council may affirm, reverse or modify any action taken relative to a license. The decision of the City Council shall be final.

(Code 1986, §7.12

Sec. 71-13. Issuance of License.
Where proper application is made for a license or permit and the conditions, requirements and prerequisites for the issuance of the license or permit have been met, the license or permit applied for shall be issued by the City Clerk, provided that no cause, as that term is defined herein, exists for denial of the license.
(Code 1986, §7.13)

Sec. 71-14. Denial of a License.
Where proper application is made for a license or permit and such a license or permit is denied by the City Clerk or other issuing person or body, the applicant shall have the right to appeal such a denial as elsewhere provided for by law or in this Code. If no such provision is made for an appeal of a denial, the applicant may appeal as set out herein. For purposes of this section, denial of a license shall include refusal to issue an original license or refusal to renew or reissue an existing license. Denial shall be made only for cause as herein defined. Within ten (10) days of notification of denial of a license from the City Clerk, an applicant shall file with the City Clerk a written notice of appeal. The Clerk shall refer a copy of this notice to the Mayor. Upon receipt of a notice of appeal the City Clerk shall confer with the Mayor or his designee to set a
hearing time as soon as is practical but not later than ten (10) days after the filing of the notice of appeal with the City Clerk. The hearing provided for may be conducted by the Mayor or his designee and it shall be conducted as provided for in section 7.12 except that the issue to be determined is whether the denial of the license was proper. The person conducting the hearing shall render a written decision stating the reasons for the decision.

(Code 1986, §7.14)

Sec. 71-15. Fees.
Fees required by this Code for license applications shall be paid to the City Clerk prior to submission of the application. Fees required by this Code for the issuance of a license shall be paid to the City Clerk prior to submission of the application. Fees required by this Code for the issuance of a license shall be paid to the City Clerk prior to the issuance of the license. Except as otherwise provided for by law or in this Code, fees required by this Code shall be as set out in Chapter 72 of this Code. No fees shall be refunded.

(Code 1986, §7.15)

Sec. 71-16. License Reissuance.
It shall be the responsibility of all persons engaging in any trade, business, profession, occupation, amusement, activity or privilege required to be licenses to obtain all licenses required by this Code prior to engaging in or continuing in the licenses trade, business, profession, occupation, amusement, activity or privilege. To assist in the reissuance of licenses to license holders, the City Clerk may send a license renewal application and invoice for the license fee to license holders prior to the end of a license year. Upon receipt of the completed application and the appropriate fee, the Clerk may issue a license for the following year. If a license fails to file an application for renewal and/or fails to pay the license renewal fee prior to the expiration of a license year, that application shall be considered to be an application for a new license and compliance with the provisions of section 7.26 shall be required prior to the granting of a license.

(Code 1986, §7.16)

Sec. 71-17. Exhibition of a License.
Where certain premises are licensed or where a licensed trade, business, profession, occupation, amusement, activity or privilege is carried on at a fixed place or establishment, all licenses shall be conspicuously displayed upon the premises, or at or at the fixed place or establishment. All licenses shall be displayed in an area of the premises, fixed place or establishment that is open to the public. Where there is no premises, fixed place or establishment, the licensee shall have the license or licenses issued in his or her possession at all times when conducting, carrying on, or otherwise engaging in the licenses trade, business, profession, occupation, amusement, activity or privilege. The license shall be promptly displayed upon the request of any police officer or any properly identified officer of the City.

(Code 1986, §7.16)

Sec. 71-18. Exhibition on Vehicle and Machine.
(1). each license granted for the operation of a vehicle as required under this Code shall include the issuance of a tag, insignia, license plate or number. This tag, insignia, license plate or number shall be prominently displayed on the vehicle in a place where it can readily be seen and read at all times when the vehicle is being used in the licensed activity.
(2). Every person who owns or operates any vending machine, amusement device or other coin-operated device which is required to be licensed under this Code shall conspicuously display on each such machine or device his name, address and City license number, in a form approved by the City Clerk.
(Code 1986, §7.18)

**Sec. 71-19. Displaying Invalid License and Surrender of Invalid License.**
No person shall display any expired license, any license for which a duplicate has been issued, or any license which has been suspended or revoked, nor shall any person display any license which has not been duly and regularly issued to or on behalf of the person displaying it for the trade, business, profession, occupation, amusement, activity or privilege in, at, or for which the license is displayed. It shall be the duty of every licensee or any employee, agent or representative of a licensee, to surrender to any properly identified representative of the City, upon demand, any license which is expired, suspended, revoked, altered, amended, modified, changed or damaged or any license for which a duplicate has been issued.
(Code 1986, §7.19)

**Sec. 71-20. Transfer, Alteration or Misuse of a License.**
No license issued under the provisions of this Code shall be transferable or assignable unless specifically and explicitly authorized by this Code. No person shall transfer or assign or attempt to transfer or assign any license and no person shall receive or attempt to receive a transferred or assigned license. No person shall, except as authorized by this Code or by the City Clerk, write upon, alter, amend, modify, change or damage any license.
(Code 1986, §7.20)

**Sec. 71-21. Revocation.**
In addition to any other penalties or actions permitted or authorized by this Code, any transfer or assignment of a license or any attempted transfer or assignment shall be void and shall result in the automatic revocation of the license.
(Code 1986, §7.21)

**Sec. 71-22. Curb Stands Prohibited.**
No person, whether licensed pursuant to this Chapter or not, shall park at the curb for the purpose of conducting business, nor shall any person establish a stand, booth or other place of business on any street, curb, sidewalk, public right-of-way or thoroughfare without having obtained permission to do so from the Mayor. This section shall not be interpreted to prohibit parking for the purpose of making deliveries or for the purpose of consummating sales to persons waiting at the curb provided that the seller leaves the curb immediately after such deliveries or sales are completed.
(Code 1986, §7.22)

**Sec. 71-23. Curb Service Prohibited.**
No person shall engage in the giving of curb service. For purposes of this section, curb service is defined as the use of a public street, highway, thoroughfare or right-of-way by a person operating from a store or other fixed location for the sale, solicitation for sale, or delivery of any goods, services or property.
(Code 1986, §7.23)
Any person who aids, abets, counsels, procures, commands or assists in the commission of any violation of the provisions of this Chapter shall be punishable as a principal.
(Code 1986, §7.24)

Sec. 71-25. Cause Defined.
The term "cause" as used in this Chapter shall include the doing or omitting of any act, the permitting of any condition to exist in any trade, business, profession, occupation, amusement, activity or privilege for which a license is provided under the provisions of this Code, or upon the premises or facilities used in connection therewith, which act, omission or condition is:

(1) A violation of this Code.
(2) A violation of any other applicable federal, state or local law, Ordinance, rule or regulation.
(3) Unlawful or fraudulent in nature.
(4) Beyond the scope of the license granted.
(5) Abandonment of the licensed trade, business, profession, occupation, amusement, activity or privilege.
(6) An unfair or deceptive act or practice as defined in Section 2 of the Michigan Consumer Protection Act (1976 PA 331; MCL 445. 901 et seq.).
(Code 1986, §7.25)

Sec. 71-26. Late Application Penalty.
Any person who shall fail to file an application for a license at or prior to the time required by this Code shall be assessed a late application fee of ten (10%) per cent of the fee provided for in Chapter 72 for each calendar month or fraction thereof that the person should have been licensed or twenty-five ($25.00) dollars whichever is greater. No new or renewal license shall be issued until such fee shall have been paid. Any application filed after the beginning of a license year shall be treated as an application for a new license and no such license shall be issued until the fees for a new license, as provided for in Chapter 72, shall have been paid. The provisions of this section shall be cumulative to the penalty provisions of Chapter 1 of this Code and to the provisions of this Code relating to the suspension, revocation and denial of a license.
(Code 1986, §7.26)
CHAPTER 72
FEES AND BONDS REQUIRED

Sec. 72-1. Schedule Established.
Sec. 72-2. Fees for Licenses.
Sec. 72-3. Licenses for: (A-L)
Sec. 72-4. Licenses for: (M-Z)
CHAPTER 72
FEES AND BONDS REQUIRED

Sec. 72-1. Schedule Established.
The fee required to be paid and the amount of any bond required to be posted, or insurance required to be carried, to obtain any license to engage in the operation, conduct, or carrying on of any trade, profession, business or privilege for which a license is required by the provisions of this Code shall be as hereinafter provided in this Chapter. No license shall be issued to any applicant unless he first pays to the City Clerk the fee and posts a bond or evidence of insurance coverage in the amount required for the type of license desired. (Code 1986, §7.61) (Also refer to City of Galesburg, Standard Construction Requirements, January 2017, Page 22-7)

Sec. 72-2. Fees for Licenses.
Fees for licenses shall be as prescribed in the following sections of this Chapter under the business, trade, occupation or privilege to be licensed. Bonds or insurance coverage, where required, shall be in the amounts listed beneath the license fee prescribed for such business. (Code 1986, §7.62) (Also refer to City of Galesburg, Standard Construction Requirements, January 2017, Page 22-7)

Sec. 72-3. Licenses for: (A - L).

Auctions (7.142)
For each day less than one week ----- $ 5.00 per person
For each week less than one month ---- $ 15.00 per person
For each calendar year or part thereof Exceeding four months $ 60.00 per person
(Code 1986, §7.63) (Also refer to City of Galesburg, Standard Construction Requirements, January 2017, Page 22-7)

Sec. 72-4 Licenses for: (M - Z).

Peddlers (7.72)
For each day less than one week ----- $ 5.00 per person
For each week less than one month $ 15.00 per person
For each calendar year or part $ 60.00 per person
Solicitors (7.85)
For each day less than one week $ 5.00 per person
<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>For each week less than one month</td>
<td>$15.00</td>
</tr>
<tr>
<td>For each calendar year or part thereof</td>
<td></td>
</tr>
<tr>
<td>Exceeding four months</td>
<td>$60.00</td>
</tr>
<tr>
<td>Transient Merchants (7.91)</td>
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</tr>
<tr>
<td>For each day less than one week</td>
<td>$5.00</td>
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<tr>
<td>For each week less than one month</td>
<td>$15.00</td>
</tr>
<tr>
<td>For each calendar year or part thereof</td>
<td></td>
</tr>
<tr>
<td>Thereof exceeding four months</td>
<td>$60.00</td>
</tr>
</tbody>
</table>

(Code 1986, §7.64) (Also refer to City of Galesburg, Standard Construction Requirements, January 2017, Page 22-7)
CHAPTER 73
RESERVED
CHAPTER 74
UTILITIES

Article I. In General.
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Sec.-74-18.-Turning on water service.
Sec.-74-19.-Water meters.
Sec.-74-20.-Access to meters.
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Sec.-74-22.-Meter failure.
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Sec.-74-25.-Bill adjustment.
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Sec.-74-27.-Water scarcity.
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Sec. 74-53. Action by city upon violation.
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Sec. 74-55. Inspections of operations; confidentiality of information.
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Sec. 74-78. Additional requirements.
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Secs. 74-122-74-137. Reserved.

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CHAPTER 74
UTILITIES

ARTICLE I. IN GENERAL

Secs. 74-1-74-15. Reserved.

ARTICLE II. WATER

Sec. 74-16. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings
ascribed to them in this section, except where the context clearly indicates a different meaning:
Department means the public works department.

Water connection means that part of the water distribution system connecting the water main
with the premises served.

Water main means that part of the water distribution system located within the easement lines of
streets designed to supply more than one water connection.
(Code 2005,§74-16)

Sec. 74-17. Service connections.
Application for water connections shall be made to the department on forms prescribed and
furnished by it. Water connections and water meters shall be installed in accordance with rules
and regulations of the department and upon payment of the required connection fee and meter
installation fee. All meters and water connections shall be the property of the city. Connection
fees and meter installation charges shall not be less than the cost of materials, installation and
overhead attributable to such installations.
(Code 2005,§74-17)

Sec. 74-18. Turning on water service.
No person, other than an authorized employee of the department, shall turn on or off any water
service, except that a licensed plumber may turn on water service for testing his work (after
which it must be immediately turned off) upon receiving a written order from the department;
provided, that upon written permit from the department, water may be turned on for construction
purposes only, prior to the granting of a certificate of occupancy for the premises, and upon
payment of the charges applicable thereto.
(Code 2005,§74-18)

Sec. 74-19. Water meters.
All premises using water shall be metered, except as otherwise provided in this Code. No person
except a department employee shall break or injure the seal or change the location of, alter or
interfere in any way with any water meter.
(Code 2005,§74-19)

Sec. 74-20. Access to meters.
The department shall have the right to shut off the supply of water to any premises where the
department is not able to obtain access to the meter. Any qualified employee of the department
shall at all reasonable hours have the right to enter the premises where such meters are installed
for the purpose of reading, testing, removing or inspecting same and no person shall hinder, obstruct, or interfere with such employee in the lawful discharge of his duties in relation to the maintenance and reading of such water meter. 
(Code 2005,§74-20)

Sec. 74-21. Reimbursement for damage. 
Any damage which a meter may sustain resulting from carelessness of the owner, agent or tenant or from neglect of either of them to properly secure and protect the meter, as well as any damage which may be wrought by frost, hot water or steam backing from a boiler, shall be paid by the owner of the property to the city on presentation of a bill therefor; and in cases where the bill is not paid, the water shall be shut off and shall not be turned on until all charges have been paid to the city.  
(Code 2005,§74-21)

Sec. 74-22. Meter failure. 
If any meter shall fail to register properly, the department shall estimate the consumption on the basis of former consumption and bill accordingly. 
(Code 2005,§74-22)

Sec. 74-23. Inaccurate meters.  
A consumer may require that the meter be tested. If the meter is found accurate, a reasonable charge for inspection will be assessed, based on actual cost to remove, ship and test the meter. This charge will be assessed against the consumer. If the meter is found defective, it shall be repaired or an accurate meter installed and no charge shall be made.  
(Code 2005,§74-23)

Sec. 74-24. Accuracy required. 
A meter shall be considered accurate if when tested it registers not to exceed two percent more or two percent less than the actual quantity of water passing through it. If a meter registers in excess of two percent more than the actual quantity of water passing through it, it shall be considered "fast" to that extent. If a meter registers in excess of two percent less than the actual quantity of water passing through it, it shall be considered "slow" to that extent. 
(Code 2005,§74-24)

Sec. 74-25. Bill adjustment. 
If a meter has been tested at the request of a consumer and shall have been determined to register "fast" the city shall credit the consumer with a sum equal to the percent "fast" multiplied by the amount of all bills incurred by said consumer, within the six months prior to the test, and if a meter so tested is determined to register "slow", the department may collect from the consumer a sum equal to the percent "slow" multiplied by the amount of all the bills incurred by the consumer for the prior six months. When the department on its own initiative makes a test of a water meter, it shall be done without cost to the consumer, other than his paying the amount due the city for water used by him as above provided, if the meter is found to be "slow". 
(Code 2005,§74-25)

Sec. 74-26. Hydrant use. 
No person, except an employee of the city in the performance of his duties, shall open or use any fire hydrant except in case of emergency, without first securing a written permit from the department and paying such charges as may be prescribed. 
(Code 2005,§74-26)

Sec. 74-27. Water scarcity.
(a) Regulation. Whenever the city council determines that the demand for water from the city distribution system is such that unless the usage is regulated, the public health, safety and general welfare is likely to be endangered, it shall prescribe rules and regulations to regulate the water usage in the city during such emergency.

(b) Notice. Before any such rule or regulation shall become effective it shall be published in one issue of a newspaper of general circulation in the city.

(c) Violation. Any person violating any such rule or regulation shall, upon conviction thereof, be punished as prescribed in chapter 1 of this Code.

(Code 2005, §74-27)

**Sec. 74-28. Additional regulations.**

The department superintendent may make and issue additional rules and regulations concerning the water distribution system, connection thereto, meter installations and maintenance, connection and meter installation fees, hydrants and water mains and the appurtenances thereto, not inconsistent herewith. Such rules and regulations shall be effective upon approval by the city council. The rules and regulations now in effect shall continue until changed in accordance with this section.

(Code 2005, §74-28)

**Sec. 74-29. Injury to facilities.**

No person, except an employee of the city in the performance of his duties, shall willfully or carelessly break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the city water distribution system.

(Code 2005, §74-29)

**Sec. 74-30. Cross connections.**


b. Inspection of property. It shall be the duty of the city building Inspector to cause inspection to be made of all properties served by public water supply where cross connections with the public water supply is deemed possible. The frequency of inspections and re-inspections based on potential hazards involved shall be as established by the city and as approved by the state department of public health.

c. Right of entry; furnishing information. Representatives of the city shall have the right to enter at any reasonable time any property served by a connection to the public water supply system of the city thereof for cross connections. On request, the owner, lessees or occupants of any property so served shall furnish to the inspection agency any pertinent information regarding the piping system or systems on such property. The refusal of such information or refusal of access, when requested, shall be deemed evidence of the presence of cross connections.

d. Discontinuance of water supply; notice. The department is hereby authorized and directed to discontinue water service after reasonable notice to any property wherein any connection in
violation of this section exists, and to take such other precautionary measures deemed necessary to eliminate any danger of noncompliance with the provisions of this section.

e. Protection from contamination. The potable water supply made available on the properties served by the public water system supply shall be protected from possible contamination as specified by this section and by the state plumbing code. Any water outlet which could be used for potable or domestic purposes and which is not supplied by the potable system must be labeled in a conspicuous manner as:

WATER UNSAFE
FOR DRINKING

f. State plumbing code not superseded. This section does not supersede the state plumbing code or other provisions of this Code relating to plumbing.

g. Violation of order of department. Any person or customer found guilty of violating any of the provisions of this section, or any written order of the superintendent of the department, in pursuance thereof, shall be deemed guilty of a violation of this Code, punishable as prescribed in section 1-10 of this Code.

(Code 2005, §74-30)

Secs. 74-31-74-45. Reserved.

ARTICLE III. SEWERS

DIVISION 1. GENERALLY

Sec. 74-46. Definitions.

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

B.O.D. (denoting biochemical oxygen demand) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20 degrees Celsius, expressed in parts per million in weight.

Board of public works as used herein refers to the county board of public works, or the county department of public works.

Building drain means that part of the lowest horizontal piping of a drainage system which receives the sewage discharge inside the walls of a building and conveys it to the building sewer. It shall end five feet outside the inner face of the building wall.

Building sewer means the extension from the building drain to the public sewer or other place of disposal.

Chemical oxygen demand or C.O.D. means the quantity of oxygen utilized in the chemical oxidation of organic matter, expressed in terms of milligrams per liter.

Combined sewer means a sewer receiving both surface runoff and sewage.
Compatible pollutant means those pollutants which the waste water system is or may be designed to reduce or remove from waste water in accordance with its NPDES permit.

Cooling water means the water discharged from any use such as air conditioning, refrigeration or other cooling to which the only pollutant added is heat.

Department means the public works department or its authorized representative, whose duty is to cause the provisions of this chapter to be enforced and to make complaint against, and cause to be prosecuted all persons violating the provisions thereof.

Engineer means the engineer of the city. The engineer shall be a registered professional engineer in the state.

Garbage means solid wastes from the preparation, cooking and dispensing of food, and from the handling, storage and sale of produce.

Industrial wastes means the liquid wastes from industrial processes as distinct from sanitary or household sewage.

Kalamazoo means the City of Kalamazoo.

Major contributory industry means an industrial user of the waste water system that:

1. Has a flow of 50,000 gallons or more per average workday;

2. Has a flow greater than five percent of the flow carried by the municipal system receiving the waste;

3. Has in its waste a toxic pollutant in toxic amounts as defined in standards issued under section 307 of the FWPCA, or by the city; or

4. Is found by the city or state, in connection with the NPDES permit issued to the city, to have significant impact, either singly or in combination with other contributing industries, on the waste water system or upon the quality of effluent from the waste water system.

mg/l means milligrams per liter.

Natural outlet means any outlet into a watercourse, pond, ditch, lake or other body of surface or ground water.

NPDES or national pollutant discharge elimination system means the program for issuing, conditioning and denying permits for the discharge of pollutants from point sources into the navigable waters, territorial seas, and contiguous zones of the United States pursuant to section 402 of the FWPCA.

Nuisance shall mean, but is not limited to, any condition where sewage or the effluent from any sewage disposal facility or toilet 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 stream, or when the odor, appearance, or presence of this material has an obnoxious or detrimental effect on or to the senses and/or health of persons, or when it shall obstruct the comfortable use or sale of adjacent property.
pH means the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

Pollutant means dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, residential and agricultural waste.

Pollution means the man-made or man-induced alteration of the chemical, physical, biological or radiological integrity of water.

Pretreatment means application of physical, chemical and/or biological processes to reduce the amount of pollutants in or alteration of the nature of the pollutant properties in waste water prior to discharging such waste water into the waste water system.

Pretreatment standards means all applicable rules and regulations implementing section 307 of the FWPCA, as well as any non-conflicting state or local standards which may require more restrictive treatment of waste water under the circumstances described in section 307.

Properly shredded garbage means the wastes from the preparation, cooking and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch in any dimension.

Public sewer means a sewer which is owned and controlled by public authority.

Sanitary sewage means the liquid or water-carried waste discharged from the sanitary conveniences of dwellings (including apartment houses and hotels), office buildings, factories, or institutions.

Sewage means a combination of water-carried wastes from residences, business buildings, institutions and industrial establishments, together with such ground, surface and storm waters as may be present.

Sewage works means all facilities for the collection, pumping, treating and disposal of sewage and industrial wastes.

Sewer means any pipe, tile, tubes, or conduit for carrying sewage.

Slug means any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than 15 minutes more than five times the average 24-hour concentration or flows during normal operation.

Storm sewer or storm drain means a sewer which carries storm and surface waters and drainage. Storm water means that part of the rainfall which reaches the sewers as run-off from natural land surface, building roofs or pavements or as ground water infiltration, but excludes sewage and polluted industrial wastes.

Suspended solids means solids that either float on the surface of, or are in suspension in water, sewage or other liquids, and which are removable by laboratory filtering in accordance with the latest edition of Standard Methods for the Examination of Water and Wastewater published by the American Public Health Association.

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47 State law reference—Sewage sludge. MCL 324.3133
Treatment plant means any arrangement of devices and structures used for treating sanitary sewage.

Uncontaminated industrial wastes means water which has not come into contact with any substance used in or incidental to industrial processing operations.

User means any person who discharges or causes or permits the discharge of waste water into the waste system and/or the owner or occupant of any property from which said discharge is made.

Watercourse means a channel, natural or artificial, in which a flow of water occurs, either continuously or intermittently.

(Code 2005, §74-46)

Sec. 74-47. Protection from damage.

No unauthorized person shall maliciously, willfully; or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance, or equipment which is a part of any sewer system in the city. Any person found violating this provision shall be subject to immediate arrest and charged with disorderly conduct, and punished under sections 74-49 and 74-50 hereof.

(Code 2005, §74-47)

Sec. 74-48. Power and authority of inspectors.

(a) Authorized persons of the city, and/or the health officers and other duly authorized employees of the city; county, department of public works bearing proper credentials and identification shall be permitted to enter upon all properties for the purpose of inspection, observation, measurement, sampling and testing, in accordance with the provisions of this article.

(b) It shall be the duty of the department and/or the city council to enforce this article.

(Code 2005, §74-48)

Sec. 74-49. Notice of violation.

Any person who shall violate any provision of this chapter shall be served by the city with a written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within, or at the expiration of, the period of time stated in such notice permanently cease all violations. Any person who shall continue any violation beyond the time limit provided shall be guilty of a violation of this Code.

(Code 2005, §74-49)

Sec. 74-50. Violation; penalty.

Any person who shall violate any provision of this chapter, shall, upon conviction of such violation, be punished by a fine of not to exceed $100.00, and cost of prosecution, or by imprisonment for a period of not to exceed 90 days, or by both such fine and imprisonment, in the discretion of the court. Each day in which any such violation shall continue shall be deemed a separate offense.

(Code 2005, §74-50)

Sec. 74-51. Restrictions imposed by other laws.

If any other ordinance or Code provision of the city and/or the statutes of the State of Michigan imposes greater restrictions than herein set forth, then such ordinances, Code provisions and/or statutes shall control.

(Code 2005, §74-51)

Sec. 74-52. Report of violation.
If a person discharges, or causes or permits to be discharged, any pollutant or wastewater containing a pollutant into the wastewater system in violation of any of the provisions of this article, such person shall immediately thereafter notify the city of such discharge to enable the city to take any action necessary for the protection of the system or the prevention of a health hazard.

(Code 2005, §74-52)

Sec. 74-53. Action by city upon violation.
(a) A violation of any of the provisions of this article shall be considered a public nuisance per se, and any action authorized or permitted by law for the abatement of public nuisances may be instituted by the city in regard to such violation.
(b) Whenever the city finds that a violation of this article is occurring and presents an emergency which threatens immediate, serious harm to any portion of the wastewater system which threatens to or does create an immediate health hazard, the user's wastewater service may be terminated by order of the city, pending further investigation and hearing under section 74-54.
(c) Whenever a person has violated any of the provisions of this article, the city may take any legal action necessary to recover damages sustained by the city as a result thereof. Such damages include, but are not limited to, lost revenues from the federal or state government and any fine or other penalty which is the result of the violation.

(Code 2005, §74-53)

Sec. 74-54. Termination of service.
(a) Authority to terminate. The city may terminate wastewater service to a user:
(1) Who attempts to violate or violates any of the provisions of this article;
(2) Who in any way attempts to avoid, delay, prevent or interfere with the execution or enforcement of any of the provisions of this article;
(3) Who fails to pay charges, levied against him or her, whether regular or extraordinary, under this article;
(4) Who attempts to violate or violates or attempts to avoid, delay, prevent or interfere with the execution or enforcement of a rule or regulation promulgated by the city for compliance with or execution of this article; or
(5) Who fails to appear at a hearing to meet a charge against him or her under this chapter.

(b) Hearing procedures.
(1) In addition to any remedy provided elsewhere in this chapter, whenever the city has reason to believe that a user has committed or is committing an offense covered by subsection (a) hereof, he or she may serve upon the user a written notice stating the nature of the alleged violation and describing the time for and the nature of the required correction.
(2) If the violation is not corrected as prescribed in such notice, the city may issue an order to the user to appear for a hearing and show cause why service should not be terminated.
(3) The notice and the order to show cause shall be served upon the user by personal service or, in lieu thereof, by certified mail, return receipt requested, to the user's last known address.
(4) The hearing shall be conducted by the city or a hearing officer appointed by city, which shall render a written decision determining whether or not the user's service shall be terminated and stating reasons therefor. Admissibility of evidence at the hearing shall be within the discretion of the city or the hearing officer.
(5) The user shall be entitled to be represented at the hearing in person or by an attorney at his or her own expense and shall be entitled to examine witnesses for the city and present evidence on his or her own behalf. A record shall be made of the proceedings, but such record need not be verbatim.
(6) A user whose service is terminated without prior hearing may request such a hearing as is described in this subsection to permit him or her to show why his or her service should not have
been terminated and should be resumed. Such a request shall be granted, but service shall not be resumed unless so ordered by the city or hearing officer.
(Code 2005,§74-54)

Sec. 74-55. Inspections of operations; confidentiality of information.

(a) Inspection. An industrial or commercial user of the wastewater system is subject to inspection of his or her facilities and records pertaining to raw materials use at the request of the city during all reasonable business hours and in an emergency at any time. Such an inspection may include, but is not limited to, monitoring of the user's operations. The city recognizes that proper identification is necessary for access to the facilities and will arrange appropriate prior security clearances. The premises of a user may be inspected at all reasonable hours for the purpose of determining whether or not violation of any of the provisions of this article exists.

(b) Refusal of user to grant inspection. If a user refuses to grant the city entry upon request, the city may seek an administrative warrant for an inspection from a court authorized to issue search warrants under state law. In an emergency that creates an immediate and substantial danger to persons or property, the premises of a user may be inspected at any time and without permission or a warrant.

(c) Trade secrets or patented processes. No trade secret or patented process disclosed to the city under this section shall be disclosed to other nongovernmental persons. Such information shall be confidential and exempt from release to nongovernmental persons, in accordance with section 13(1)(g) of the Freedom of Information Act (MCL 15.243(1)(g)).
(Code 2005,§74-55)

Sec. 74-56. Rules and regulations.

(a) With the approval of the commission for the purpose of preventing, discontinuing or correcting a violation of any of the provisions of this article, the city or its designee may adopt and establish rules and regulations for the enforcement of this article.

(b) Rules and regulations adopted under this section may include, but are not limited to, imposing requirements upon industrial or commercial users to submit plans for the pretreatment of wastewater, to install equipment to monitor the nature and quantity of the wastewater being discharged into the system and/or to keep records.
(Code 2005,§74-56)

Secs. 74-57-74-72. Reserved.

DIVISION 2. PUBLIC SEWERS

Sec. 74-73. Use required.
It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner upon public or private property within the city or in any area under the jurisdiction of said city, any human or animal excrement, garbage, or other objectionable waste.
(Code 2005,§74-73)

Sec. 74-74. Water pollution.
It shall be unlawful to discharge to any natural outlet or watercourse within the city, or in any area under the jurisdiction of said city, any sanitary sewage, industrial wastes, or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this article.
(Code 2005,§74-74)
Sec. 74-75. Privies and septic tanks.

Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facilities intended or used for the disposal of sewage or industrial wastes on any premises in the city to which public sanitary sewer facilities are available without written authority granted by the health officer and the city council. All permissible private facilities for the disposal of sanitary sewage and industrial waste shall always be in compliance with the standards as set forth by the state department of health and of the county department of health.

(Code 2005,§74-75)

Sec. 74-76. Sewer connection required.

The owners of all houses, buildings or property used for human occupancy, employment, recreation or other purposes situated within the city and abutting upon any street, alley or right-of-way in which there is or may hereafter be located a public sanitary sewer shall, when such sewer facilities are available to such houses, buildings or properties, be required within 1½ years after said service is available to install suitable facilities for the discharge of sewage and to connect such facilities directly to the public sewer in accordance with the provisions of this chapter; provided, however, that notwithstanding any other provision herein contained, the owners of all such houses, buildings or properties used for human occupancy, employment, recreation or other purposes abutting upon any street, alley, or right-of-way in which there is or may hereafter be located a public sanitary sewer, having a private system for the disposal which does not conform to the standards of the state department of health and of the county human services department shall connect the facilities located thereon for the discharge of sewage to the public sanitary sewer facilities within 30 days after said facilities are available; provided further, that notwithstanding any other provision herein contained when the owner of such houses, buildings or property used for human occupancy, employment, recreation or other purposes abuts on any street, alley, or right-of-way in which there is or may hereafter be located a public sanitary sewer available to it but which has a private system for the disposal of sewage, said owner shall connect all facilities for the discharge of sewage, immediately when such private system fails to function properly or creates a health hazard.

(Code 2005,§74-76)

Sec. 74-77. Sewer availability.

At such time as a public sewer becomes available to a property previously served by a private sewage disposal system, a direct connection shall be made to such public sewer in compliance with section 74-76, and any septic tanks, cesspools and similar private sewage facilities shall be abandoned.

(Code 2005,§74-77)

Sec. 74-78. Additional requirements.

No statement contained in this article shall be construed to interfere with any additional requirements that may be imposed by the city, or by any other governmental unit or body having jurisdiction or to which the city council has delegated such jurisdiction.

(Code 2005,§74-78)

Sec. 74-79. Limitations on waste water discharging.
(a) If any waters or wastes are discharged or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in section 74-64, and which in the judgment of the city may deleteriously affect the waste water system or carry through the system untreated any pollutant regulated by the NPDES permit issued to the city; or constitute a hazard to human or animal life or to any watercourse receiving the treated effluent or the waste water system; or violate any pretreatment standards hereinafter established; or cause the waste water system to violate its NPDES permit or other applicable receiving water standard, the city may:

(1) Reject the wastes,
(2) Require pretreatment to an acceptable condition for discharge to the public sewers,
(3) Require control over the quantities and rates of discharge, and/or
(4) Require payment to cover added costs of handling and treating the wastes not covered by existing taxes or sewer use charges.

(b) If the city permits or requires the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the state, department of environmental quality, in accordance with the laws of the state and regulations promulgated thereunder. The property owner shall not commence construction of such facility until he has obtained such approvals in writing from the city and appropriate state agencies.

(c) Each contributing industrial user as defined in section 74-46 of the treatment facilities shall pretreat any pollutant in its waste water which may interfere with, pass through untreated, reduce the utility of municipal sludge, or otherwise be incompatible with the treatment works. Pretreatment of such pollutants shall be in accordance with section 307 of Public Law 92-500, 40 CFR 403, and as determined by the city. All owner(s) of any source to which pretreatment standards are applicable shall be in compliance with such standards within the shortest reasonable time, but not later than the date of compliance required by 40 CFR 403 or the date established by the city, whichever first occurs. All owner(s) of any source to which pretreatment standards are applicable shall submit to the city semi-annual notices regarding specific actions taken to comply with such standards. Such notices shall be submitted on April 1 and October 1.

(d) If any contributing industrial user proposes to pretreat its wastes, the design and installation of the plants and equipment shall be subject to the review and approval of the city.

(Code 2005,§74-79)

Sec. 74-80. Prohibited discharges.
No person shall convey, deposit or cause or allow to be discharged, conveyed or deposited into the waste water system any pollutant other than a compatible pollutant which the system expressly agrees to accept from a user, or any waste water containing any of the following:

(1) Oils and grease. Fats, wax, grease or oils in excess of100 mg/l or containing substances which may solidify or become viscous at temperatures between zero degrees and 65 degrees Celsius at the point of discharge into the waste water system, or concentrations or amounts of oil or grease from industrial facilities violating pretreatment standards.

(2) Explosive mixtures. Liquids, solids or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion. Such prohibited materials include but are not limited to gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates and carbides.

(3) Noxious materials. Solids, liquids or gases from processes employed in the user's business, trade or profession which, either singly or by interaction with other wastes, are capable of creating a public nuisance or hazard to life, or are or may be sufficient to prevent entry into a sewer for maintenance or repair.

(4) Improperly shredded garbage. Garbage which is not properly shredded garbage as defined in this chapter.

(5) Radioactive wastes. Radioactive wastes or isotopes, unless their disposal via waste water is authorized by federal, state and local regulations and then only when discharge into the waste water
system does not cause damage or a hazard to the system, the persons operating the system or the general public.

(6) Excessive levels of toxic substances. Any toxic substances in amounts which cannot be handled by the system or which exceed standards promulgated by the United States Environmental Protection Agency pursuant to section 307(b) of the FWPCA, or toxic substances included in any regulations of the state department of natural resources which identify and prohibit discharge of toxic substances into the water of the state.

(7) Untreatable pollutants. Any pollutant which deleteriously affects the waste water system or process, or any pollutant which is regulated by the NPDES permit issued to the city and which will pass untreated or unaffected by the treatment system.

(8) Discoloring pollutants. Any pollutant which imparts a color to the waste water in the waste water system, which color cannot be removed by the system's treatment process or which is prohibited by the NPDES.

(9) Corrosive wastes. Any waste water having a pH lower than 6.2 or higher than 9.8, measured at the point of entry to the waste water system, or having any other corrosive property capable of causing damage to any equipment or portion of the waste water system or injury to the system's personnel.

(10) Solids. Solids or viscous substances in quantities or of such size capable of causing obstruction to the flow of sewers, or other interference with the proper operation of the waste water system such as, but not limited to, ashes, bones, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, whole blood, paunch manure, hair, fleshings or entrails.

(11) Temperature. A temperature greater than 65 degrees Celsius (149 degrees Fahrenheit) or less than three degrees Celsius (37.4 degrees Fahrenheit).

(Code 2005,§74-80)

Sec. 74-81. Water used for cooling purposes.

(a) The purpose of this section is to prevent "inflow" as hereinbefore defined and the overloading of the sewers of the city by the discharge there into of water used for cooling purposes.

(b) No equipment using direct or indirect water cooling may be installed in the city, unless a means of water disposal, other than discharge into the city's sanitary sewers, is provided. No person desiring to use any such equipment shall commence installing the same until there has been filed with the city such information as in his judgment is necessary to enable him to determine whether or not such equipment meets the requirements of this section. No permit for the installation of any such equipment may be issued by the city involving a connection to the city's storm sewers until a permit has been obtained from the city.

(c) Any authorized agent of the city may enter onto the premises of any person using water as a cooling medium for equipment, any time that the sewers connected to such equipment become overloaded and may order such equipment shut off. In the event it is not so shut off promptly, such agent of the city may shut the same off so that there cannot be any entry into the city sewers during the period the same is overloaded.

(Code 2005,§74-81)

Sec. 74-82. Order of determination.

Any person, firm, or corporation whose operations entail the discharge of water or wastes containing toxic or poisonous substance in sufficient quantity to injure or interfere with any domestic sewage treatment process, to constitute a hazard to humans or animals, or to create any hazard in the receiving waters of the sewers or sewage treatment plant, shall file with the city a written statement setting forth the nature of the operation contemplated or presently carried on, the amount of water required to be used and its source, the proposed point of discharge of said wastes into the sewage or surface drainage system of the city, the maximum amount to be discharged per unit of time, and a fair statement setting forth the expected bacterial, physical, chemical or other known characteristics of said wastes. Within 30 days of receipt of such
statement, it shall be the duty of the city to make an order of determination stating such
minimum restrictions as in the judgment of the engineer may be necessary to guard adequately
against unlawful uses of the city's sanitary and storm systems.
(Code 2005,§74-82)

Sec. 74-83. Interceptors.
Grease, oil and sand interceptors shall be provided when, in the opinion of the engineer, they are
necessary for the proper handling of liquid wastes containing grease in excessive amounts, or
any flammable wastes, sand and other harmful ingredients; except that such interceptors shall
not be required for private living quarters or dwelling units. All interceptors shall be of a type
and capacity approved by the engineer, and shall be located as to be readily and easily
accessible for cleaning and inspection. Grease and oil interceptors shall be constructed of
impervious materials capable of withstanding abrupt and extreme changes in temperatures. They
shall be of substantial construction, watertight and equipped with easily removable covers
which, when bolted in place, shall be gastight and watertight.
(Code 2005,§74-83)

Sec. 74-84. Maintaining interceptors.
Where installed, all grease, oil and sand interceptors shall be maintained by the owner, at his
expense, in continuously efficient operation at all times.
(Code 2005,§74-84)

Sec. 74-85. Preliminary treatment facilities.
(a) Waters or wastes requiring review. The admission into the public sanitary or combined sewers
of any waters or wastes having:
(1) A five-day biochemical oxygen demand greater than 300 parts per 1,000,000, or
(2) Containing more than 350 parts per 1,000,000 of suspended solids, or
(3) Having an average daily flow greater than two percent of the average daily sewage flow of the
city shall be subject to the review and approval of the city.
(b) Preliminary treatment. Where necessary, in the opinion of the city, the owner shall provide at
his expense, such preliminary treatment as may be necessary to:
(1) Reduce the biochemical oxygen demand to 300 parts per million and the suspended solids to
350 parts per million by weight, or
(2) Control the quantities and rates of discharge of such waters or wastes.
(c) Pertinent information to be submitted for approval of facilities. Plans, specifications and any
other pertinent information relating to proposed preliminary treatment facilities shall be submitted
for the approval of the city and of the appropriate agency of the State of Michigan and no
construction of such facilities shall be commenced until the said approvals are obtained in writing.
(Code 2005,§74-85)

Sec. 74-86. Maintaining treatment facilities.
Where preliminary treatment facilities are provided, for any wastes or waters, they shall be
maintained continuously in satisfactory and effective operation, by the owner at his expense.
(Code 2005,§74-86)

Sec. 74-87. Control manholes.
When required by the city the owner of any property served by a building sewer carrying
industrial wastes shall install a suitable control manhole in the building sewer to facilitate
observation, sampling and measurement of wastes. Such manhole, when required, shall be
accessibly and safely located and shall be constructed in accordance with plans approved by the
city. The manhole shall be installed by the owner at his expense, and shall be maintained by him
so as to be safe and accessible at all times.
(Code 2005,§74-87)
Sec. 74-88. Measurements and tests.
All measurements, tests, and analyses of the characteristics of waters and wastes shall be
determined in accordance with the latest edition of "Standard Methods for the Examination of
Water and Wastewater" and shall be determined at the control manhole provided for in section
74--71 or upon suitable samples taken at said control manhole. In the event that no special
manhole has been required the control manhole shall be considered to be the nearest
downstream manhole in the public sewer to the point at which the building sewer is connected.
(Code 2005,§74-88)

Sec. 74-89. Special agreements.
No statement contained in this article shall be construed as preventing any special agreement or
arrangement between the city and any person whereby any waste of unusual strength or
character may be accepted by the city for treatment, subject to payment therefor by the
individual concern.
(Code 2005,§74-89)

Sec. 74-90. Where control effective.
All the preceding specific conditions are to apply at the point where wastes are discharged into a
public sanitary or combined sewer and all chemical and/or mechanical corrective treatment must
be accomplished to practical completion before this point is reached.
(Code 2005,§74-90)

Sec. 74-91. Discharge into storm sewers.
(a) It shall be unlawful for any person to discharge or flow, or cause to be discharged or flowed, or
permit or allow the same to be done from any premises owned or controlled by him, any water or
fluid into any public storm sewer or drain or into any sewer, drain or pipe connected with or
emptying into any public storm sewer, except waters naturally resulting from rainfall or the melting
or snow and ice, or unpolluted cooling waters as provided for in section 74-65.
(b) No person shall connect or attach any downspout, pipe or drain, or cause the same to be
connected or attached to any public storm sewer without first having obtained permission, in
writing, to do so from the city. Application for such permission shall be filed with the city and shall
state the location of the connection and the name and address of the owner and occupant of the
premises to be connected and shall be accompanied by sufficient plans and specifications as to
enable the public works department to determine whether the same is proposed to be done in a
good and workmanlike manner and in accordance with standard practices and so as not to endanger
pedestrians and others using the public streets, alleys, and places. Upon compliance with the
foregoing requirements, the city shall issue such permit, but upon the express condition that the
applicant shall not use the downspout, pipe or drain, or permit the use thereof, for any other
purposes other than those allowed and set forth in subsection (a) of this section.
(Code 2005,§74-91)

Sec. 74-92. Excessive discharge.
(a) No discharge shall exceed the peak flow rate projected by the user as a condition precedent to
connection to the waste water system.
(b) No waste water shall be discharged at a rate which upsets or interferes with the treatment
process or causes a hydraulic surge in the waste water system.
(Code 2005,§74-92)

Secs. 74-93-74-108. Reserved.

DIVISION 3. BUILDING SEWERS AND CONNECTIONS
Sec. 74-109. Permit required.
Only authorized persons shall uncover and make any connections with, or openings into, use, alter, or disturb any public sewer or appurtenance thereof and then only after first obtaining a written permit from the city.
(Code 2005,§74-109)

Sec. 74-110. Types of permits.
There shall be two classes of building sewer permits:

(1) For residential and commercial service, and

(2) For service to establishments producing industrial wastes.

In either case, the owner or his agent shall make application on a special form furnished by the city. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent by the city engineer. Permit and inspection fees shall be paid to the city at the time the application is filed, and shall be in such amounts as the city shall from time to time by resolution provide.
(Code 2005,§74-110)

Sec. 74-111. Installation costs.
All costs and expense incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify all affected governmental units against any loss or damage that may directly or indirectly result from the installation of the building sewer.
(Code 2005,§74-111)

Sec. 74-112. Separate sewers.
A separate and independent sewer shall be provided for each building.
(Code 2005,§74-112)

Sec. 74-113. Old building sewers.
Old building sewers may be used in connection with new buildings only when, on examination and test by the city, they are found to meet all requirements of this article. (Code 1986, § 2.79)

Sec. 74-114. Specifications.
All sewer connections from the public sewer to a point three to five feet outside of buildings must be laid with a minimum of at least service weight cast iron soil pipe or any other material approved by the state plumbing code. All sewer connections shall start from the street or curb lateral and be graded to the building connection.
(Code 2005,§74-114)

Sec. 74-115. Size.
The size of the building sewer shall not be less than four inches. The slope shall not be less than one-eighth inch per linear foot.
(Code 2005,§74-115)

Sec. 74-116. Elevation.
Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. No building sewer shall be laid parallel to and within three feet of any bearing wall, which might thereby be weakened. The depth shall be sufficient to afford protection from frost. The building sewer shall be laid at uniform grade and in straight alignment insofar as
possible. Changes in direction shall be made only with properly curved pipe or long-radius fittings. Each bend of 45 degrees or over shall have a cleanout.
(Code 2005, §74-116)

Sec. 74-117. Lifts.
In all buildings in which any building drain is too low to permit gravity flow to the building sewer, sanitary sewage carried by such drain shall be lifted by approved means and discharged to the building sewer.
(Code 2005, §74-117)

Sec. 74-118. Excavations.
All excavations which are made for the installation of building sewers shall be excavated in complete conformance with the requirements and standards of the city. Pipe laying and backfill shall be performed in accordance with the applicable provisions of current American Society for Testing and Materials designated C-12, except that no backfill shall be placed until the work has been inspected and approved by the city. Cinders shall not be used for backfill.
(Code 2005, §74-118)

Sec. 74-119. Joints.
All joints shall be tight. Joints for cast iron pipe shall be sealed with a neoprene gasket, or approved equal material, of a type approved by the city. Paint, varnish and putty shall not be permitted on the jointing material until after testing. Joints shall be in accordance with the current ASTM specifications for the pipe used.
(Code 2005, §74-119)

Sec. 74-120. Tests.
All building sewers may be tested by air pressure or exfiltration if so determined by the city. The test shall be performed with a minimum head of six feet of water or air pressure as specified by the city. The exfiltration rate shall not exceed 150 gallons per inch of pipe diameter per mile of pipe per day if water is used or as specified if air is used. The test will be made by the installer in the presence of the city representative. Certification of the test shall be a requirement for approval of the installation.
(Code 2005, §74-120)

Sec. 74-121. Inspection.
The applicant for the building sewer permit shall notify the city when the building sewer is ready for inspection and connection to the public sewer. The connection shall be performed under the supervision of the city.
(Code 2005, §74-121)

Secs. 74-122-74-137. Reserved.

DIVISION 4. HOUSE SERVICE CONNECTIONS

Sec. 74-138. Type of connection.
House service connections shall consist of one of the following:

Type 1: Wye branches installed in the main sewer at the time of construction. Connections to existing wye branches shall be made when conveniently available with an approved type of joint material or an approved compression coupling. The connection shall be completely watertight. No connection shall be allowed to any damaged wye. If damage occurs during the making of the connection, the wye shall be taken out of the main sewer and replaced either by another
undamaged wye or by straight pipe at the expense of the plumber. If straight pipe is used in the replacement, other approved connection methods shall be used. Concrete encasement of the wye, connection joint, or any other part of the connection without proper, approved, watertight mastic or epoxy shall not be deemed watertight and shall not be allowed as a method of repairing a damaged joint.
(Code 2005,§74-138)

Sec. 74-139. Inspection.

(i) All work performed must be inspected and approved by the city.
(ii) No sewer or house lead installation or portion thereof shall have an exfiltration factor exceeding 500 gallons per inch diameter per mile of pipe per 24-hour period.
(iii) Downspouts, footing drains, weep tile, or any conduit or cleanout that carries storm or ground water shall not be allowed to discharge into the sewer or house lead.
(iv) The type of pipe in the ground, used for a house lead, will be carried all the way to the house unless a factory made, approved adapter is used to convert to another type of pipe. Example: "Uniloc" to "Wedge lock" pipe use a factory made and approved "Uniloc spigot" to a "wedge lock bell11, conversion adapter.
(v) Sewer from the house to the public sewer shall not be covered until approval has been given by the city inspector.
(vi) If a second inspection of the service connection being installed is found necessary, a fee equal to the initial inspection will be charged and collected before final approval is given.
(vii) The property owner, in conjunction with his contractor, shall satisfy himself as to the adequacy of the service connection from the public sewer to the structure to which connection is made as the city will provide no continuing maintenance of the service connection.
(Code 2005,§74-139)

Secs. 74-140-74-155. Reserved.

ARTICLE IV. RATES AND CHARGES

Sec. 74-156. Definitions.
The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Department means the city department of Water.

Person means any individual, firm, association, public or private corporation or public agency or instrumentality.

Premises means each lot or parcel of land, building or premises having any connection to the water distribution system of the city, or the sewage disposal system of the city.

Superintendent shall mean the superintendent of the department, or other person designated by the council.
(Code 2005,§74-156)

Sec. 74-157. Basis of charges.
All water service shall be charged for on the basis of water consumed as determined by the meter installed in the premises of water or sewage disposal service customers by the department. All sewage disposal service and water service shall be charged for on the basis of water registered on a meter, and where furnished to any premises not having a meter, the water
consumption shall be estimated by the superintendent. No free water service or sewage disposal service shall be furnished to any person.
(Code 2005, §74-157)

Sec. 74-158. Water rates.
The rates to be charged for water service and charges for meter installations and water connections shall be those in effect in the city on the adoption of this Code, which shall continue until changed pursuant to resolution of the city council.
(Code 2005, §74-158)

Sec. 74-159. Sewer rates.
Charges for sewage disposal service shall be levied upon all premises having any sewer connection with the public sewers. The rates in effect and sewer connection charges in effect on the adoption of this Code shall continue until changed pursuant to resolution of the city council.
(Code 1986, § 2.159)

Sec. 74-160. Service to city.
The city shall pay the same water and sewer rates for service to it as would be payable by a private customer for the same service.
(Code 2005, §74-160)

Sec. 74-161. Billing.
Charges for all water service and sewage disposal service shall be billed and collected by the city treasurer. All water meters shall be read at least semi-annually and bills rendered on the first of the month following the meter reading, which bills shall be immediately due and payable and may be paid without penalty up to the penalty date shown on the bill.
(Code 2005, §74-161)

Sec. 74-162. Collection.
The city treasurer is hereby authorized to enforce the payment of charges for water service to any premises by discontinuing the water service to such premises and the payment of charges for sewage disposal service to any premises may be enforced by discontinuing either the water service or the sewage disposal service to such premises, or both, and an action of assumpsit may be instituted by the city against the customer. The charges for water service and sewage disposal service, which, under the provisions of Public Act No. 94 of 1933 (MCL et seq.), are made a lien on the premises to which furnished, are hereby recognized to constitute such lien; and the city treasurer shall, annually, on May 1, certify all unpaid charges for such services furnished to any premises which, on April 30 preceding, have remained unpaid for a period of six months, to the city assessor, who shall place the same on the next tax roll of the city. Such charges so assessed shall be collected in the same manner as general city taxes. In cases where the city is properly notified in accordance with said Act 94 of 1933, that a tenant is responsible for water or sewage disposal service charges, no such service shall be commenced or continued to such premises until there has been deposited with the city treasurer a sum sufficient to cover three times the average quarterly bill for such premises as estimated by the superintendent, such deposit to be in no case less than $50.00. Where the water service to any premises is turned off to enforce the payment of water service charges or sewage disposal service charges, the water service shall not be recommenced until all delinquent charges have been paid, a deposit as in the case of tenants is made, and a water turn on charge set from time-to-time by the city council is paid. In any other case where, in the discretion of the city treasurer, the collection of charges for water or sewage disposal service may be difficult or uncertain, he may require a similar deposit. Such deposits may be applied against any delinquent water or sewage disposal service charges and the application thereof shall not affect the right of the treasurer or superintendent to turn off
the water service and/or sewer service, to any premises for any delinquency thereby satisfied. No such deposit shall bear interest and such deposit, or any remaining balance thereof, shall be returned to the customer making the same when he shall discontinue receiving water and sewage disposal service or, except as to tenants as to whom notice of responsibility for such charges has been filed with the city, when any eight successive quarterly bills shall have been paid by said customer with no delinquency. On request of water department personnel, a police officer on duty at the time shall accompany any department employee required to make a water turn-off for nonpayment of charges.

(Code 2005,§74-162)
ARTICLE V
CONSUMERS ENERGY COMPANY GAS and ELECTRIC FRANCHISES (Ordinance 268, effective 3/1/2019; Ordinance 269, effective 3/1/2019)

(Ordinance 268)

SECTION I
GRANT OF NON-EXCLUSIVE RIGHTS

A. **Grant and Term.** The City of Galesburg, Kalamazoo County, Michigan ("City"), grants to Consumers Energy Company ("Grantee"), its successors and assigns, subject to the terms and conditions set forth below, the non-exclusive right, power and authority to construct, maintain and operate gas mains, pipes and services (hereinafter "Gas System") on, along, across, over and under the public highways, streets, alleys, bridges and waterways (hereinafter also referred to as "Public Ways") and to do a local gas business, within the City for a period often (10) years.

B. **Consideration.** In consideration of the rights, power and authority hereby granted, said Grantee shall faithfully perform all things required by the terms hereof.

C. **Extensions.** Grantee shall construct and extend its Gas System within the City, and shall furnish gas service to applicants residing therein in accordance with applicable laws, rules and regulations.

SECTION II
USE OF PUBLIC RIGHTS-OF-WAY BY GRANTEE

A. **No Burden on Public Ways.** Grantee and its contractors, subcontractors and the Grantee's Gas System shall not unduly burden or interfere with the present or future use of any of the Public Ways within the City. Grantee shall install and maintain its Gas System so as to cause minimum interference with the use of the Public Ways. No Public Way shall be obstructed longer than necessary during the work of construction or repair to the Gas System. Grantee's structures and equipment shall be buried so as to not endanger or injure persons or property in the Public Ways.

B. **Restoration of Public Ways.** Grantee and its contractors and subcontractors shall within a reasonable time restore, at Grantee's sole cost and expense, any portion of the Public Ways that is in any way disturbed, damaged, or injured by the construction, operation, maintenance or removal of the Gas System to as good or better condition than that which existed prior to the disturbance. In the event that Grantee, its contractors or subcontractors fail to make such repair within a reasonable time as determined by the City in its reasonable discretion, the City shall, among other remedies, be entitled to have the repair completed and Grantee shall pay the costs for such repair.

C. **Easements.** Any easements over or under property owned by the City other than the Public Ways shall be separately negotiated with the City.

D. **Compliance with Laws.** Grantee shall comply with all applicable laws, statutes, ordinances, rules, regulations and City Charter regarding its Gas System, whether federal, state or local, now in force. Nothing herein shall be construed as a waiver by Grantee of any of its existing or future rights under state or federal law.

E. **Street Vacation.** Grantee accrues no rights under this franchise which would
impair the rights of the City to vacate or consent to the vacation of a Public Way.

F. **Company Representative.** The Grantee shall designate an employee to act as a representative to respond to inquiries from the City regarding the administration of this franchise and the obligations and services herein. The Grantee shall provide the City with the person's name and telephone number.

G. **Notice.** Before commencing the construction or repair work on its Gas System which will require excavation in or the closing of any street, alley, bridge, waterway or other public place, the Grantee shall provide the City with notice, including a description of the work to be performed, in advance of such work. This notice requirement shall not apply to the installation of gas services on privately owned property nor to any other work performed on such privately owned property. Nothing herein shall preclude the Grantee from immediately commencing construction or repair work within any street, alley, bridge, waterway or other public place when deemed necessary to prevent danger to life or property, and in such case, the Grantee shall notify the City of such work as soon as reasonably practical.

**SECTION III**

**HOLD HARMLESS**

The Grantee shall at all times keep and save the City free and harmless from all loss, costs and expense to which it may become subject by reason of the construction, maintenance and operation of the structures and equipment hereby authorized. In case any action is commenced against the City on account of the permission herein granted, said Grantee shall, upon notice, defend the City and save it free and harmless from all loss, cost and damage arising out of said permission. Providing further, that this hold harmless agreement shall not apply to any loss, cost, damage or claims arising solely out of the negligence of the City, its employees or its contractors. Furthermore, in the event that any loss, cost, damage or claims arise out of the joint negligence of the City, its employees or its contractors, this hold harmless agreement shall not apply to the proportional extent of the negligence of the City, its employees or its contractors. Notwithstanding any provision contained in this Ordinance, nothing in this Ordinance shall impair any liability protection afforded the City pursuant to law.

**SECTION IV**

**REVOCATION**

The franchise granted by this Ordinance is subject to revocation upon sixty (60) days written notice by the party desiring such revocation.

**SECTION V**

**RATES**

Grantee shall be entitled to charge the inhabitants of the City for gas furnished at the rates approved by the Michigan Public Service Commission, to the extent it or its successors, have authority and jurisdiction to fix and regulate gas rates and promulgate rules regulating such service in the City. Such rates and rules shall be subject to review at any time upon petition being made by either the City acting through the City Council or by Grantee.

**SECTION VI**
CITY JURISDICTION

Said Grantee shall be and remain subject to all ordinances, rules and regulations of the City now in effect, or which might subsequently be adopted for the regulation of land uses or for the protection of the health, safety and general welfare of the public; provided however, that nothing herein shall be construed as a waiver by Grantee of any of its existing or future rights under state or federal law.

SECTION VII

MICHIGAN PUBLIC SERVICE COMMISSION

Grantee shall, as to all other conditions and elements of service not addressed or fixed by this Ordinance, remain subject to the rules and regulations applicable to gas service by the Michigan Public Service Commission, or its successor bodies to the extent such jurisdiction applies.

SECTION VIII

ASSIGNMENT OF FRANCHISE

Grantee shall not assign this Franchise to any other person, firm or corporation without the prior written approval of the City Council. 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. Grantee shall reimburse the City for reasonable actual costs incurred in the review of a request by Grantee for approval.

ARTICLE V (Consumers Electric Franchise)

(Ordinance 269)

An Ordinance granting to CONSUMERS ENERGY COMPANY, its successors and assigns, the right, power and authority to construct, maintain and commercially use electric lines consisting of towers, masts, poles, crossarms, guys, braces, feeders, transmission and distribution wires, transformers and other electrical appliances on, under, along and across the highways, streets, alleys, bridges, waterways, and other public places, and to transact a local electric business in the CITY OF GALESBURG, KALAMAZOO COUNTY, MICHIGAN, for a period of 10 years.

SECTION I

GRANT OF NON-EXCLUSIVE RIGHTS

A Grant and Term. The City of Galesburg, Kalamazoo County, Michigan ("City"), grants to Consumers Energy Company ("Grantee"), its successors and assigns, subject to the terms and conditions set forth below, the non-exclusive right, power and authority to construct, maintain and commercially use electric lines consisting of towers, masts, poles, cross-arms, guys, braces, feeders, transmission and distribution wires, transformers and other electrical appliances (hereinafter "Electric System") on, along, across, over and under the public highways, streets,
alleys, bridges, waterways, and other public places (hereinafter also referred to as "Public Ways") and to transact a local electric business, within the City for a period of ten (10) years.

B. **Consideration.** In consideration of the rights, power and authority hereby granted, said Grantee shall faithfully perform all things required by the terms hereof.

C. **Extensions.** Grantee shall construct and extend its Electric System within the City, and shall furnish electric service to applicants residing therein in accordance with applicable laws, rules and regulations.

### SECTION II
**USE OF PUBLIC RIGHTS-OF-WAY BY GRANTEE**

A. **No Burden on Public Ways.** Grantee and its contractors, subcontractors and the Grantee's Electric System shall not unduly burden or interfere with the present or future use of any of the Public Ways within the City. Grantee shall install and maintain its Electric System so as to cause minimum interference with the use of the Public Ways. No Public Way shall be obstructed longer than necessary during the work of construction or repair to the Electric System. Grantee's cable, wires, structures and equipment shall be suspended or buried so as to not endanger or injure persons or property in the Public Ways.

B. **Restoration of Public Ways.** Grantee and its contractors and subcontractors shall within a reasonable time restore, at Grantee's sole cost and expense, any portion of the Public Ways that is in any way disturbed, damaged, or injured by the construction, operation, maintenance or removal of the Electric System to as good or better condition than that which existed prior to the disturbance. In the event that Grantee, its contractors or subcontractors fail to make such repair within a reasonable time specified by the City, the City shall, among other remedies, be entitled to have the repair completed and Grantee shall pay the costs for such repair.

C. **Easements.** Any easements over or under property owned by the City in fee shall be separately negotiated with the City.

D. **Compliance with Laws.** Grantee shall comply with all applicable laws, statutes, ordinances, rules, regulations and City Charter regarding its Electric System, whether federal, state or local, now in force. Nothing herein shall be construed as a waiver by Grantee of any of its existing or future rights under state or federal law.

E. **Tree Clearing.** Grantee may clear trees upon and overhanging the Public Ways so as to prevent trees from coming into contact with the Electric System in accordance with the tree clearing standards of Grantee and the applicable requirements of the MPSC. Except in an emergency, no clearing shall be done in the Public Ways without previously informing the City.

F. **Street Vacation.** Grantee accrues no rights under this franchise which would impair the rights of the City to vacate or consent to the vacation of a Public Way.

G. **Company Representative.** The Grantee shall designate an employee to act as a representative to respond to inquiries from the City regarding the administration of this franchise and the obligations and services herein. The Grantee shall provide the City with the person's name and telephone number.

H. **Notice.** Before commencing the construction or repair work on its Electric System which will require excavation in or the closing of any street, alley, bridge, waterway or other public place, the Grantee shall provide the City with notice, including a description of the work to be
performed, in advance of such work. This notice requirement shall not apply to the installation of
electric services on privately owned property nor to any other work performed on such privately
owned property. Nothing herein shall preclude the Grantee from immediately commencing
construction or repair work within any street, alley, bridge, waterway or other public place when
deemed necessary due to an emergency or service restoration, and in such case, the Grantee shall
notify the City of such work if reasonably practical.

SECTION III

HOLD HARMLESS

The Grantee shall at all times keep and save the City free and harmless from all loss, costs and
expense to which it may become subject by reason of the construction, maintenance and
operation of the structures and equipment hereby authorized. In case any action is commenced
against the City on account of the permission herein granted, said Grantee shall, upon notice,
defend the City and save it free and harmless from all loss, cost and damage arising out of said
permission. Providing further, that this hold harmless agreement shall not apply to any loss,
cost, damage or claims arising solely out of the negligence of the City, its employees or its
contractors. Furthermore, in the event that any loss, cost, damage or claims arise out of the joint
negligence of the City, its employees or its contractors, this hold harmless agreement shall not
apply to the proportional extent of the negligence of the City, its employees or its contractors.
Notwithstanding any provision contained in this Ordinance, nothing in this Ordinance shall
impair any liability protection afforded the City pursuant to law.

SECTION IV

REVOCATION

The franchise granted by this Ordinance is subject to revocation upon sixty (60) days written
notice by the party desiring such revocation.

SECTION V

RATES

Grantee shall be entitled to charge the inhabitants of the City for electricity furnished at the rates
approved by the Michigan Public Service Commission, to the extent it or its successors, have
authority and jurisdiction to fix and regulate electric rates and promulgate rules regulating such
service in the City. Such rates and rules shall be subject to review at any time upon petition
being made by either the City acting through the City Council or by Grantee.

SECTION VI

CITY JURISDICTION

Said Grantee shall be and remain subject to all ordinances, rules and regulations of the City now
in effect, or which might subsequently be adopted for the regulation of land uses or for the
protection of the health, safety and general welfare of the public; provided however, that nothing
herein shall be construed as a waiver by Grantee of any of its existing or future rights under state
or federal law.
SECTION VII

MICHIGAN PUBLIC SERVICE COMMISSION

Grantee shall, as to all other conditions and elements of service not addressed or fixed by this Ordinance, remain subject to the rules and regulations applicable to electric service by the Michigan Public Service Commission, or its successor bodies to the extent such jurisdiction applies.

SECTION VIII

ASSIGNMENT OF FRANCHISE

Grantee shall not assign this Franchise to any other person, firm or corporation without the prior written approval of the City Council. 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. Grantee shall reimburse the City for reasonable actual costs incurred in the review of a request by Grantee for approval.

SECTION IX

SEVERABILITY

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 or administrative agency of competent jurisdiction, the remainder of the Ordinance shall not be affected thereby.

SECTION X

REPEAL OF CONFLICTING ORDINANCES

All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.
CHAPTER 75
STORM WATER MANAGEMENT

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Sec. 75-50. Sanctions for violation.
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ARTICLE VIII. AUTHORITY FOR STORMWATER MANAGEMENT

(Ordinance No. 255, effective 11/30/2009)

Sec. 75-200. General.
Sec. 75-201. Findings and objectives.
Sec. 75-202. Definitions.
Sec. 75-203. Performance Standards.
Chapter 75
STORMWATER MANAGEMENT

ARTICLE I GENERAL

Sec. 75-1. Purpose.
The purpose of this article is to protect the public health, safety and welfare of city residents and to protect property values, quality of life, and natural systems relating to stormwater runoff control and management. The city finds it is a matter of public concern and benefit to protect water bodies and properties within the city and to reduce the future need for public expenditures relating to flooding, water quality, and stormwater system maintenance. Both the quality and quantity of stormwater runoff are a matter of public concern.

It is also the purpose of this article to establish minimum stormwater management requirements and controls to accomplish, among others, the following objectives:

(A) To regulate the contribution of pollutants to the stormwater drainage system and natural water bodies by stormwater discharges by any user.
(B) To prohibit illicit discharges and connections to the stormwater drainage system and natural water bodies.
(C) To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this part.
(D) To provide appropriate remedies for failure to comply with this part.

In addition to the requirements herein, a developer shall comply with the City of Galesburg construction requirements pertaining to stormwater sewer construction and stormwater drainage regulations.

(Code 2005,§75-1)

Sec. 75-2. Statutory authority; enforcement.

A. This Chapter is adopted in accordance with the Home Rule Cites Act, as amended, being MCL 117.1 et seq.; the Drain Code of 1956, as amended, being MCLA Sec. 280.1 et seq.; the Land Division Act, as amended, being MCLA Sec. 560.101 et seq.; the Revenue Bond Act, as amended, being MCLA Sec. 141.101 et seq.; the Natural Resources and Environmental Protection Act, as amended, being MCLA Sec. 324.101 et seq.; Section 401 (p) of the Federal Water Pollution Control Act (also known as the Clean Water Act), as amended, being 33 U.S.C. Sec. 1342(p) and 40 CFR Parts 9, 122, 123 and 124; and other applicable state and federal laws.

B. The City shall administer, implement and enforce the provisions of this part. Any powers granted or duties imposed upon the City may be delegated in writing by the City Council of the City of Galesburg to persons or entities acting in the beneficial interest of or in the employ of the City.

(Code 2005,§75-2)

Sec. 75-3. Findings.
The city finds that stormwater regulation and management is a matter of public health, safety and welfare because:

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. Changes in land use alter the hydrologic response of watersheds, resulting in increased stormwater runoff rates and volumes, which further result in increased flooding, increased stream channel erosion, and increased sediment transport and deposition.

d. Stormwater runoff produced by changes in land use contributes to increased quantities of water-borne pollutant

e. Illicit discharges contain pollutants that will significantly degrade the stream and Lake Michigan and water resources of the City, thus threatening the health, safety and welfare of the citizenry.

f. Illicit discharges enter the stormwater drainage system 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 storm drain system or spills connected by drain inlets).

g. Establishing the measures for controlling illicit discharges and connections contained in this part and implementing the same will address many of the deleterious effects of illicit discharges.

Any condition caused or permitted to exist in violation of any of the provisions of this part is a threat to public health, safety and welfare and is declared and deemed a nuisance (Code 2005,§75-3)

Sec. 75-4. Applicability and general provisions.

This part shall apply to all discharges entering the stormwater drainage system and natural water bodies generated on any developed and undeveloped lands within the City. (Code 2005,§75-4)

Sec. 75-5. Definitions.

For the purpose of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section unless the context in which they are used specifically indicates otherwise.

AUTHORIZED ENFORCEMENT AGENCY The City of Galesburg and/or any persons or agencies designated to act as the authorized enforcement agency by the City Council of the City of Galesburg.

BEST MANAGEMENT PRACTICES (BMPs) Structural devices or nonstructural practices that are designed to prevent pollutants from entering stormwater flows, to direct the flow of stormwater, or to treat polluted stormwater flows. BMPs may include, but shall not be limited to, those described in the Michigan Department of Environmental Quality Guidebook of BMPs for Michigan watersheds. Equivalent practices and design criteria that accomplish the purposes of this part (including, but not limited to, minimizing stormwater runoff and preventing the discharge of pollutants into stormwater) shall be as determined by the City Engineer and, when applicable, the standards of the Kalamazoo County Drain Commissioner.

CLEAN WATER ACT The Federal Water Pollution Control Act, 33 U.S.C. Sec. 1251 et seq., as amended, and the applicable regulations promulgated thereunder.
DETENTION BASIN A structure or facility, natural or artificial, which stores stormwater on a temporary basis and releases it at a predetermined rate. A detention basin may drain completely after a storm event, or it may be a pond with a fixed minimum water elevation between runoff events.

DISCHARGE The introduction (intentionally or unintentionally, directly or indirectly) of any liquid, substance, pollutant or other material into a stormwater drainage system or natural water body.

DISCHARGE The rate of flow or volume of water passing a given point. Expressed as cubic feet per second.

DISCHARGER Any person or entity who directly or indirectly discharges stormwater from any premises or property. "Discharger" also includes any employee, officer, director, partner, contractor or other person who participates in, or is illegally or factually responsible for, any act or omission that is, or results in, a violation of this part.

DISTURBED AREA An area of land subject to the removal of vegetative cover and/or earthmoving activities.

DRAIN Any and all conduits, facilities, measures, areas and structures that serve to convey, catch, hold, filter, store and/or receive stormwater or groundwater, either on a temporary or permanent basis.

DRAINAGE The collection, conveyance or discharge of groundwater and/or surface water.

DRAINAGE SYSTEM All facilities, areas, and structures which serve to convey, tore, or receive stormwater, either on a temporary or permanent basis.

DRAINAGeway A natural or artificial facility, area, or structure which conveys or transports stormwater runoff from one location to a different location. This may include a drain, water body or floodplain.

EARTH CHANGE Any human activity which removes ground cover, changes the slope or contours of the land, or exposes the soil surface to the actions of wind and rain. Earth change includes, but is not limited to, any excavating, surface grading, filling, landscaping, or removal of vegetative roots.

EPA The U.S. Environmental Protection Agency.

EROSION The removal of soil particles from the land by the action of water, wind, ice, or other geological agents.

FLOODPLAIN The area, usually low lands, adjoining the channel of a river, stream or watercourse or lake or other body of standing water that has been or may be covered by floodwater.

GRADING Any stripping, excavating, filling, and stockpiling of soil or any combination thereof and the land in its excavated or filled condition.

HAZARDOUS MATERIALS Any solid, liquid, semisolid or gaseous substance or material that because of its quantity, quality, concentration or physical, chemical or infectious characteristics may cause or significantly contribute to an increase in mortality or an increase in serious
irreversible illness or serious incapacitating but reversible illness, or may pose a substantial present or potential hazard to human health or the environment if improperly treated, stored, transported, disposed of, or otherwise managed.

**ILLICIT CONNECTION** Any method or means or conduit for conveying an illicit discharge into a natural water body or a stormwater drainage system.

**ILLICIT DISCHARGE** Any discharge to a water body or a stormwater drainage system that does not consist entirely of stormwater, that is not authorized by the terms of an NPDES permit, or that is not an authorized discharge as defined by this part.

**INfiltration** The percolation and movement of water downward into and through the soil column. The rate of this movement is expressed in inches per hour.

**MDEQ** Michigan Department of Environmental Quality.

**NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT** A permit issued by the EPA or a state under authority delegated pursuant to the Clean Water Act that authorizes the discharge of pollutants to waters of the United States.

**NONSTORMWATER DISCHARGE** Any discharge to the stormwater drainage system or a water body that is not composed entirely of stormwater.

**OFFSITE FACILITY** Any portion of a stormwater management system which is located off the development site which it serves.

**100-YEAR STORM** That water occupation adjacent to a body of water.

**PERSON** An individual, firm, partnership, association, public or private corporation, public agency, instrumentality or any other legal entity.

**POLLUTANT** 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, hazardous materials, 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. "Pollutant" also includes properties or characteristics of water, including, but not limited to, pH, heat, TSS, turbidity, color, BOD, COD, toxicity and odor.

**PREMISES** Any building, structure, lot, parcel of land or portion of land, or property, whether improved or unimproved, including adjacent sidewalks and parking strips.

**PRIMARY DRAINAGE SYSTEM** Facilities, structures, and areas which convey, store, or receive runoff from storms up to a 10-year frequency.

**PROPERTY OWNER** Any person having legal or equitable title to property or premises or any person having or exercising care, custody or control over any property or premises.

**RECEIVING BODY OF WATER** Any watercourse or wetland into which surface waters are directed, either naturally or artificially.
**RETENTION BASIN** A holding area for stormwater, either natural or constructed, which does not have a positive outlet. Water is removed from retention basins through infiltration and/or evaporation processes, and may or may not have a permanent pool of water.

**RUNOFF** The portion of precipitation which does not infiltrate or percolate into the ground, but rather moves over the land, eventually reaching a body of water, wetland, or low area.

**SECONDARY DRAINAGE SYSTEM** Facilities, structures, and areas which convey, store or receive runoff from storms up to a 100-year frequency without causing serious damage to adjacent properties.

**SEDIMENT** Any solid particulate matter, both mineral and organic, which has been moved from the site of origin by erosion, is being transported by water, is in suspension in water, or has been deposited in a body of water, wetland or floodplain.

**SITE** Any tract, lot, or parcel of land or combination of tracts, lots, or parcels, which compose an area proposed for development and/or earth change.

**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 OF MICHIGAN WATER QUALITY STANDARDS** All applicable state rules, regulations, and laws pertaining to water quality, including the provisions of Section 3106 of Part 31 of 1994 P.A. 451, as amended.

**STORM DRAIN** A system of open or enclosed conduits and appurtenant structures intended to convey or manage stormwater runoff, groundwater and drainage.

**STORMWATER DRAINAGE SYSTEM** Storm sewers, conduits, curbs, gutters, catch basins, drains, ditches, pumping devices, parking lots, roads or other man-made channels that are designed or used, singly or together in combination with one another, for collecting or conveying stormwater.

**STORMWATER FACILITY** Methods, structures, BMP's, areas, or related items, which are used to control, store, receive, infiltrate, or convey runoff.

**STORMWATER MANAGEMENT PLAN** Maps and written information which describe the way in which stormwater will be controlled, both during and after construction.

**STORMWATER POLLUTION PREVENTION PLAN** A document that describes the BMPs and activities to be implemented by a person or business to identify sources of pollution or contamination at a site, and the actions to eliminate or reduce pollutant discharges to stormwater, a storm drain or stormwater drainage system, and/or a water body to the maximum extent practicable.

**STORMWATER RUNOFF (or STORMWATER)** The runoff and drainage of precipitation resulting from rainfall, snowmelt or other natural event or process.

**TOXIC MATERIAL** Any pollutant or combination of pollutants that is or can potentially be harmful to the public health or the environment, including without limitation those listed in 40

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48 **State law reference**—Soil erosion and sedimentation control. MCL 324.9106.
CFR 401.15 as toxic under the provisions of the Clean \later Act or listed in the Critical Materials Register promulgated by the Michigan Department of Environmental Quality, or as otherwise provided by local, state or federal laws, rules or regulations.

WASTEWATER Any water or other liquid, other than uncontaminated stormwater, discharged from a property or premises. The term includes any water that has in any way been used and degraded or physically or chemically altered.

WATER BODY A river, lake, stream, creek or other watercourse or wetlands.

WATERCOURSE Any waterway or other body of water having reasonably well defined banks, including rivers, streams, creeks and brooks, whether continually or intermittently flowing; and lakes and ponds, as shown on the official maps of the Michigan Department of Natural Resources and Kalamazoo County Drain Commissioner.

WETLAND Land characterized by the presence of water at a frequency and duration sufficient to support, and that under normal circumstances does support, wetland vegetation and/or aquatic life. Also known as a bog, swamp, marsh, etc. (from Sec. 324.30301 of Michigan Complied Laws, Part 303 of NREPA, Wetlands Protection). The Michigan Department of Environmental Quality is the authority on the presence and regulatory status of wetlands.

(Code 2005,§75-5)

Sec. 75-6 - 75-9. Reserved.

ARTICLE II PROHIBITIONS AND AUTHORIZATIONS

Sec. 75-10. Prohibited discharges.

A. It is unlawful for any person to discharge, or cause to be discharged, to a stormwater drainage system or water body, directly or indirectly, any substance or material, including, but not limited to, pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than stormwater or an authorized discharge. This prohibition includes the commencement, conducting or continuance of any illicit discharge by any person to a stormwater drainage system or water body.

B. Any person discharging stormwater shall effectively prevent pollutants from being discharged with the stormwater, except in accordance with BMPs.

C. The authorized enforcement agency is authorized to require dischargers to implement pollution prevention measures, using stormwater pollution prevention plans and BMPs, as determined necessary by the authorized enforcement agency to prevent or reduce the discharge of pollutants to a stormwater drainage system or water body.

D. The discharge prohibitions of this section shall not apply to any non-stormwater discharge authorized under an NPDES permit, waiver or waste discharge order issued to the discharger and administered under the authority of 50 MCL 333.16631, the EPA, provided the discharger is in full compliance with all requirements of the permit, waiver or order and other applicable laws and

49 State law reference—Wetlands protection. MCL 324.30307
50 State law reference—Dental Amalgam—MCL 333.16631
regulations, and provided that written approval has been granted for any discharge to the
stormwater drainage system.
(Code 2005,§75-10)

Sec. 75-11. Prohibited illicit connections.

(A) It is unlawful for any person to construct, use, maintain (or to allow the construction, use,
maintenance or continued existence of) an illicit connection.

This prohibition expressly includes, without limitation, illicit connections made prior to the
effective date of this part, and regardless of whether the connection was permissible under law
or practices applicable or prevailing at the time of connection.
(Code 2005,§75-11)

Sec. 75-12. Authorized discharges.

The following non-stormwater discharges are permissible, provided they do not result in a
violation of State of Michigan water quality standards, and provided that they are undertaken in
compliance with any applicable or required BMPs:

(A) Water supply line flushing.
(B) Landscape irrigation runoff.
(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) Irrigation water.
(K) Springs.
(L) Water from crawl space pumps.
(M) Footing drains and basement sump pumps.
(N) Lawn watering runoff.
(O) Waters from noncommercial car washing.
(P) Flows from riparian habitats and wetlands.
(Q) Residential swimming pool water and other dechlorinated swimming pool water, provided that
any filter backwash water that is present is treated.
(R) Residual street wash water.
(S) Discharges or flows from emergency firefighting activities.
(T) Discharges specifically authorized in writing by the authorized enforcement agency as being
necessary to protect public health, welfare and safety or the environment.
(Code 2005,§75-13)

Sec. 75-13. Storage of hazardous or toxic materials on drainageway.

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 stormwater drainage
system or water body.
(Code 2005,§75-13)
Sec. 75-14-75-19. Reserved.

ARTICLE III. INSPECTION, MONITORING, REPORTING AND RECORDKEEPING

Sec. 75-20. Inspection and sampling.

The authorized enforcement agency may inspect and/or obtain samples from a discharger's property or premises as necessary to determine compliance with the requirements of this part. Upon request, the discharger shall allow the properly identified representatives of the authorized enforcement agency to enter the property or premises of the discharger at all hours necessary for the purposes of such inspection or investigation, including, but not limited to, smoke/dye testing, televising pipes, sampling and excavation. The authorized enforcement agency shall provide the discharger reasonable advance notice of the need for such access, if possible and consistent with protection of public health and safety and the environment. The properly identified representatives may place on the discharger's property or premises the equipment or devices used for such sampling or inspection. Unreasonable delays in allowing access to a property or premises is a violation of this part.
(Code 2005, §75-20)

Sec. 75-21. Stormwater-monitoring facilities.

If directed in writing to do so by the authorized enforcement agency, a discharger of stormwater runoff from any property or premises shall provide and operate equipment or devices for the monitoring of stormwater runoff to provide for inspection, sampling and flow measurement of each discharge to a water body or a stormwater drainage system, as specified by the authorized enforcement agency. The authorized enforcement agency 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 at the discharger's expense in accordance with applicable laws, ordinances and regulations.
(Code 2005, §75-21)

Sec. 75-22. Accidental discharges.

Any discharger who accidentally discharges into a stormwater drainage system or a water body any substance other than stormwater or an authorized discharge shall immediately notify the authorized enforcement agency of the discharge. If the notification is given orally, a written report concerning the discharge shall be filed with the authorized enforcement agency within five days. The written report shall specify all of the following:

(A) The composition of the discharge and the cause thereof.
(B) The exact date, time and estimated volume of the discharge.
(C) All measures taken to clean up the discharge, all measures taken or proposed to be taken to mitigate any known or potential adverse impacts of the discharge, and all measures proposed to be taken to reduce and prevent any recurrences.
(D) The names and telephone numbers of the individual making the report and (if different) the individual who may be contacted for additional information regarding the discharge.
(Code 2005, §75-22)
Sec. 75-23. Recordkeeping requirement.
Any person that violates the requirement of this part or that is subject to monitoring under this part shall retain and preserve for no less than five (5) 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 or premises connected with the violation or subject to monitoring. (Code 2005,§75-23)

Sec. 75-24-75-29. Reserved.

ARTICLE IV. PERFORMANCE AND DESIGN STANDARDS

Sec. 75-30. Responsibility to implement BMPs.
The owner or operator of a premises used for any multiple-family dwellings, mobile home parks, planned unit development, plat, site condominium, office, commercial or industrial purposes (regardless of parcel size) shall provide, at the owner's or operator's own expense, reasonable protection from an accidental discharge of prohibited materials or other wastes from entering into the stormwater drainage system or natural water body through the use of structural and nonstructural BMPs. Further, any person responsible for a property or premises that is, or may be, the source of an illicit discharge may be required to implement, at his expense, additional structural and nonstructural BMPs to prevent the further discharge of pollutants to the stormwater drainage system or natural water body. 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. (Code 2005,§75-30)

Sec. 75-31. Performance Standards.

1. Stormwater management areas and facilities, whether on-site or off-site, shall be designed, constructed, and maintained to prevent flooding and protect water quality. In order to be approved, all stormwater management plans must meet the following performance standards:

(a) Runoff leaving the site shall be controlled to a non-erosive velocity, both during and after construction.

(b) Minimum Treatment Volume. A minimum treatment volume is established to provide pollutant removal (pre-treatment) for prevalent precipitation events. The minimum treatment volume standard shall be either; one inch of runoff from the entire site or the calculated site runoff from the 90 percent annual non-exceedance storm, which is one inch for the City. Use of the US Geological Service (USGS) runoff curve number method is the preferred means to calculate site runoff.

Treatment methods shall be designed on a site-specific basis to achieve a minimum of 80 percent removal of total suspended solids (TSS), as compared with uncontrolled runoff, or discharge concentrations of TSS not to exceed 80 milligrams per liter (mg/l).

A minimum treatment volume standard is not required where site conditions are such that TSS concentrations in stormwater discharges will not exceed 80 mg/l.
(c) Channel Protection Criteria. Channel protection criteria is established to protect stream channel bed and banks from excessive flows. The channel protection criteria is to maintain post-development site runoff volume and peak flow rate at or below existing levels for all storms up to the 2-year, 24-hour event. "Existing levels" means the runoff flow volume and rate for the last land use prior to the planned new development or redevelopment.


Curve number evaluation is described in a document titled "Computing Food Discharges for Small Ungauged Watersheds", July 2003, which can be found at www.michigan.gov/deqstormwater under "Municipal Program/MS4 Permit Guidance" (go to "Stormwater Control Resources" and select "Guidance for Calculating Runoff Volume and Peak Flow Rate").

(d) Flood Control. A flood control performance standard is required to ensure stormwater entering the City MS4 is s: than the existing (pre-development) conditions and on-site retainage is properly designed to protect neighboring properties. The City Engineer or designee will review each site plan for approval on a case-by-case basis to determine if the proposed strategy meets industry standards and is appropriate for the specific site.

(e) Riparian Buffers. A riparian buffer shall be provided for lands adjacent to streams and rivers and wetlands which are contagious to these natural features. Riparian buffers shall also be required for noncontiguous wetlands if the full extent of the wetland as a natural feature is five (5) acres or greater.

The riparian buffer shall serve as a natural conservation area, where the principle best management practice is vegetative filtering and the conservation of trees, shrubs and herbaceous vegetation. The riparian buffer is a stormwater management measure to control soil loss and reduce water quality degradation caused by nutrients, animal wastes, toxics, sediment and runoff.

The riparian buffer shall begin at the edge of the stream bank of the active channel or the wetland boundary. The riparian buffer shall be composed of two distinct management zones in order to proscribe both permitted and restricted uses that provide progressive best management practices for stormwater quality protection.

(i) Zone 1 - Stream Side Protection. Zone 1 begins at the edge of the stream bank or wetland and extends 25 feet upgradient and perpendicular to the protected natural feature. Zone 1 shall contain undisturbed natural vegetation. Allowable uses within this zone are restricted to flood control structures, utility right of ways, foot paths, and road crossings where permitted. Highly restricted vegetative trimmings and removal of woody brush/trees is allowed to provide a limited viewshed of the protected natural feature.

(iii) Zone 2 - Outer Zone. The Outer Zone (Zone 2) begins at the outer limit of the Stream Side Protection Zone (Zone 1) and extends 25 feet. Allowable uses within the Outer Zone are biking or hiking paths, approved stormwater management facilities, approved recreational facilities, and removal of mature tree cover. Shrub and herbaceous ground cover are to be protected from disturbance.
Permitted Activities. The following actions are permitted within Zones 1 and 2, provided the activity is undertaken in accordance with recognized best management practices. Other regulatory restrictions may apply, such as actions that may require separate federal, state or local permit or permit-by-rule provisions.

(a) Stream restoration projects conducted with advice and guidance of the Michigan Department of Environmental Quality.
(b) Removal of individual trees that are in danger of falling, causing damage to structures, or causing blockage of the stream.
(c) Timber cutting techniques approved by state agencies, under advice and guidance, for purposes of forest management due to pest infestation, disease or threat from fire.
(d) Riparian buffers are intended to grow into their vegetative target state naturally, however active methods to enhance successional process, reforestation or to ensure preservation and propagation of the buffer are allowed.

(v) The width of each Zone may need to be increased if steep slopes are within close proximity of the protected natural feature. Guidelines of the US Geological Service may be used to determine the required equivalent length of vegetative filter capacity needed for slopes in excess of 15%.

(vi) Encouragement of voluntary measures. Lands adjacent to the outer edge of the Outer Zone (Zone 2) are hereby defined as riparian lands. Riparian property owners have a unique and critical role in protecting water quality, preserving critical natural features and accommodating wildlife whose survival depends upon water features and conservation corridors. For example, some studies suggest that riparian buffers of 150 feet may be required for certain Michigan threatened species to successfully move between larger conservation areas and maintain healthy breeding populations. Therefore, it is a policy of the City to educate, outreach and otherwise assist riparian land owners in the implantation of additional voluntary stormwater best management practices.

2 Stormwater storage facilities which protect water quality and prevent adverse flooding on-site and off-site shall be required for all sites. In order to improve the quality of stormwater runoff and reduce the discharge of sediment into wetlands, watercourses, roadways, structures and other property within, and downstream of the City of Galesburg, the following techniques (a) through (f) and standards (g) through (i) shall be used:

(a) Infiltration of runoff provided that soils and groundwater conditions are suitable.
(b) Retention basins with a fixed minimum water elevation between runoff events (e.g., wet ponds).
(c) Detention basins which drain completely after a storm event (e.g., dry basins) but which discharge stormwater to wetlands or constructed basins which trap sediment carried by stormwater runoff.
(d) Detention basins which hold stormwater for more than 24 hours before completely draining to become a dry basin (Extended detention basins).
(e) Detention basins with a positive outlet shall be designed to hold runoff from a 10- year storm event, as a minimum. Retention basins without a positive outlet shall be designed to hold runoff from a 100-year storm event.
(f) The banks of detention basins shall not exceed a 1:5 slope unless a fence is constructed.
(g) Natural watercourses shall not be dredged, cleared of vegetation, deepened, widened, straightened, stabilized or otherwise altered without approval from the Michigan Department of Natural Resources and Kalamazoo County Drain Commissioner.

(h) Discharge of runoff from commercial and industrial sites which may contain oil, grease, toxic chemicals, or other polluting materials shall be prohibited unless approval has been obtained from the Michigan Department of Natural Resources and Kalamazoo County Drain Commissioner.

(i) The use of stormwater management areas and vegetated buffer areas as open space, recreation, and conservation areas shall be encouraged.

(j) Right of entry; furnishing information. Representatives of the City, State of Michigan DNR or DEQ, Michigan Department of Transportation, and Kalamazoo County Drain Commission shall have the right to enter at any reasonable time any property served by a stormwater drainage facility for inspections. On request, the owner, lessees or occupants of any property so served shall furnish to the inspection agency any pertinent information regarding the drainage system or systems on such property. The refusal of such information or refusal of access, when requested, shall be deemed evidence of the presence of unlawful discharge.

3 Pipes, conduits, ditches, drains, or other conveyance facilities shall not discharge directly to the following receiving waters without providing the minimum treatment volume and channel protection criteria:

a Any natural watercourses, including lakes, ponds, rivers and streams.

b Wetlands with unique or natural wildlife or habitat characteristics as defined by a professional wetlands delineation specialist, biologist or ecologist.

c Wetlands which are within a 500 foot distance of any natural lake or pond.

d Wetlands which are within a 100 foot distance of any river or stream.

4 Discharges from stormwater conveyance facilities shall be routed through swales, vegetated buffer strips, stormwater basins, hydrologically isolated wetlands, and other facilities designed to decrease runoff velocity and volume, allow for natural infiltration, allow suspended solids to settle, and remove pollutants.

5 If wetlands are proposed for stormwater detention, runoff must be diffused to non-erosive velocities before it reaches the wetlands.

6 Operation and Maintenance. All structural and vegetative best management practices installed as a performance standard for stormwater management shall include a plan for maintaining maximum performance through long-term operation and maintenance (O&M). The plan shall include a schedule for O&M procedures and recordkeeping provisions such as periodic inspections.

7 Records Retention. Inspections and other records pertaining to the O&M of best management practices for stormwater water quality protection shall be maintained by the property owner and retained for a minimum of five years.

8 No stormwater management plan shall be approved if the City of Galesburg Planning Commission finds that the action will or is likely to pollute, impair or destroy air, water or other natural resources or the public trust therein, provided that there is a feasible and prudent alternative consistent with the reasonable requirements of the public health, safety and welfare.
Sec. 75-32. Design Standards.
The City shall maintain design standards on file at the City office. If specific BMPs design standards are not on file, design for such BMPs shall be in accordance with acceptable engineering practices and current design manuals.
(Code 2005,§75-32)

Sec. 75-33 "Hot Spots" Properties.
If the subject property is a potential "Hot Spot" area with the potential for significant pollutant loading or with the potential for contaminating public water supply (wells), additionally site-specific requirements may apply to address the contaminate(s) of concern. Example of typical "hot spots" areas included, but not limited to gas stations, commercial vehicle maintenance and repair, auto recyclers, recycling centers, and scrap yards.
(Code 2005,§75-33)

Sec. 75-34 Contaminated Properties.
If the subject property contains soil and/or groundwater contamination, site-specific requirements may apply. See MDEQ Post-Construction Storm Water Runoff Controls Program Compliance Assistance Document (MDEQ, 2014) for specifics regarding stormwater. Contact the Kalamazoo District MDEQ Office for answers to questions regarding all state environmental regulations pertaining to all contaminated sites.
(Code 2005,§75-34)

Sec. 75-35 - 75-39. Reserved.

ARTICLE V. STORMWATER MANAGEMENT PLAN AND POST CONSTRUCTION

Sec. 75-40. Stormwater Management Plan.

No building, grading, or sediment control permit shall be issued until a satisfactory stormwater management plan (or a waiver thereof) shall have undergone a review and been approved by the City after determining that the plan or waiver is consistent with the requirements of this chapter. After review of the stormwater management plan, and modifications to that plan as deemed necessary by City, a stormwater management final plan must be submitted to the City for approval. The stormwater management plan shall at a minimum include the following:

(A) Contact Information: The name, address, and telephone number of all persons having a legal interest in the property and the tax reference number and parcel number of the property or properties affected.

(B) Topographic Base Map: 1"= 200' topographic base map of the site which extends a minimum of 100 feet beyond the limits of the proposed development and indicates existing surface water drainage including streams, ponds, culverts, ditches, and wetlands; current land use including all existing structures; locations of utilities, roads, and easements; and significant natural and manmade features not otherwise shown.
(C) Calculations: Hydrologic and hydraulic design calculations for the pre-development and post-development conditions for the design storms.

(D) Soils Information: If a stormwater BMP depends on the hydrologic properties of soils (e.g., infiltration basins), then a soils report shall be submitted. The soils report shall be based on on-site boring logs or soil pit profiles. The number and location of required soil borings or soil sites shall be determined based on what is needed to determine the suitability and distribution of soil types present at the location of the BMP.

(E) Maintenance and Repair Plan: The design and planning of all stormwater management facilities shall include detailed maintenance and repair procedures to ensure their continued function. These plans will identify the parts or components of a stormwater BMP that need to be maintained and the equipment and skills or training necessary. Provisions for the periodic review and evaluation of the effectiveness of the maintenance program and the need for revisions or additional maintenance procedures shall be included in the plan.

(F) Landscaping Plan: The applicant must present a detailed plan for management of vegetation at the site after construction is finished, including who will be responsible for the maintenance of vegetation at the site and what practices will be employed to ensure that adequate vegetative cover is preserved.

(G) Stormwater Best Management Practices Operations & Maintenance Agreement: Proof of a recorded Stormwater Best Management Practices Operations & Maintenance Agreement binding on all subsequent owners of land served by stormwater BMPs to ensure maintenance and repair in accordance with the specifications of this chapter.

(Code 2005,§75-40)

Sec. 75-41. Maintenance and Repair of Stormwater BMPs.

(A) Stormwater Best Management Practices Operations & Maintenance Agreement: Prior to the issuance of any permit for development involving any stormwater BMP, the applicant or owner of the site must execute a Stormwater Best Management Practices Operations & Maintenance Agreement that shall be binding on all subsequent owners of land served by the stormwater BMP. The agreement shall provide for access to the BMP and the land it serves at reasonable times for periodic inspection by City or City's designee and for regular or special assessments of property owners to ensure that the BMP is maintained in proper working condition to meet City stormwater requirements. The agreement shall be recorded by City at the expense of the permit holder or property owners.

(B) Maintenance Covenants: Maintenance of all stormwater BMPs shall be ensured through the creation of a formal maintenance covenant that must be approved by the City and recorded prior to the stormwater management final plan approval. As part of the covenant, a schedule shall be developed for when and how often maintenance will occur to ensure proper function of the stormwater BMPs. The covenant shall also include plans for periodic inspections to ensure proper performance of the BMPs between scheduled cleanouts.

(C) Requirements for Maintenance Covenants: All stormwater BMPs must undergo, at the minimum, an annual inspection to document maintenance and repair needs and ensure compliance with the requirements of this chapter and accomplishment of its purposes. These needs may include (but are not limited to) removal of silt, litter, and other debris from all stormwater treatment and conveyance facilities including ponds, infiltration basins, raingardens, catch basins, inlets, and drainage pipes, grass cutting and vegetation removal, and necessary replacement of landscape vegetation. Any maintenance or repair needs detected must be corrected by the developer or entity
responsible under a written maintenance agreement within 30 days, as determined by City, and the inspection and maintenance requirement may be increased as deemed necessary to ensure proper functioning of the stormwater BMPs.

(D) Inspection of Stormwater BMPs: Inspection programs may be established on any reasonable basis, including but not limited to: routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with higher than usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of State or Federal water or sediment quality standards or the NPDES stormwater permit; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in stormwater BMPs, and evaluating the condition of stormwater BMPs.

(E) Right of Entry for Inspection: When any new stormwater BMP is installed on private property, or when any new connection is made between private property and a public stormwater management facility, sanitary sewer or combined sewer, the property owner shall grant to City the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection. This includes the right to enter a property when City has a reasonable basis to believe that a violation of this chapter is occurring or has occurred, and to enter when necessary for abatement of a public nuisance or correction of a violation of this chapter.

(F) Records of Installation and Maintenance and Repair Activities: Parties responsible for the operation and maintenance of stormwater BMPs shall submit to the City Clerk an annual maintenance and inspection report including all records of the installation and of all maintenance and repairs conducted. The responsible parties shall retain the records for at least five (5) years or longer if the City Inspector deems it necessary. These records shall be made available to City during inspection of the facility and at other reasonable times upon request.

(G) Failure to Maintain Stormwater BMPs: If a responsible party fails or refuses to meet the requirements of the maintenance covenant or any provision of this chapter, the City, after reasonable notice, may correct a violation by performing all necessary work to place the BMP in proper working condition. In the event that the stormwater BMP becomes a danger to public safety or public health, the City shall notify the party responsible for maintenance of the stormwater BMP in writing. Upon receipt of that notice, the responsible person shall have thirty (30) days to effect maintenance and repair of the stormwater BMP in an approved manner. After proper notice, the City may assess, jointly and severally, the owners of the stormwater BMP or the property owners or the parties responsible for maintenance under any applicable written agreement for the cost of repair work and any penalties; and the cost of the work shall be a lien on the property, or prorated against the beneficial users of the property, and may be placed on the tax bill and collected as ordinary taxes.

(Code 2005,§75-41)

Sec. 75-42 - 75-49. Reserved.

ARTICLE VI. ENFORCEMENT

Sec. 75-50. Sanctions for violation.
Violation: Any person who: 1) knew or should have known that a pollutant or substance was discharged contrary to any provision of this part or contrary to any notice, order, permit, decision or determination promulgated, issued or made by the authorized enforcement agency under this part; or 2) intentionally makes a false statement, representation or certification in an application for or form pertaining to a permit, or in a notice, report or record required by this part, or in any other correspondence or communication, written or oral, with the authorized enforcement agency regarding matters regulated by this part; or 3) intentionally falsifies, tampers with or renders inaccurate any sampling or monitoring device or record required to be maintained by this part; or 4) commits any other act that is punishable under state law by imprisonment for more than 90 days shall, upon conviction, be guilty of a misdemeanor punishable by a fine of $500 per violation, per day, or imprisonment for up to 90 days, or both, in the discretion of the Court.

(Code 2005,§75-50)

Sec. 75-51. Failure to comply; completion.
The authorized enforcement agency is authorized, after giving reasonable notice and opportunity for compliance, to correct any violation of this part or damage or impairment to the stormwater drainage system caused by a discharge and to bill the person causing the violation or discharge for the costs of the work to be reimbursed. The costs reimbursable under this section shall be in addition to fees, amounts or other costs and expenses required to be paid to the authorized enforcement agency under other sections of this part

(Code 2005,§75-51)

Sec. 75-52. Emergency measures.
If emergency measures are necessary to respond to a nuisance; to protect public safety, health and welfare; and/or to prevent loss of life, injury or damage to property, the authorized enforcement agency 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 part and shall promptly reimburse the City for all of such costs.

(Code 2005,§75-53)

Sec. 75-53. Cost: recovery for damage to stormwater drainage system.
Any person who discharges to a stormwater drainage system or a waterbody, including, but not limited to, any person who causes or creates a discharge that violates any provision of this part, produces a deposit or obstruction or otherwise damages or impairs a stormwater drainage system, or causes or contributes to a violation of any federal, state or local law governing the City, shall be liable to and shall fully reimburse the City for all expenses, costs, losses or damages (direct or indirect) payable or incurred by the City as a result of any such discharge, deposit, obstruction, damage, impairment, violation, exceedance or noncompliance. The costs that must be reimbursed to the City shall include, but shall not be limited to, all of the following:

(A) All costs incurred by the City in responding to the violation or discharge, including expenses for any cleaning, repair or replacement work, and the costs of sampling, monitoring and treatment, as a result of the discharge, violation, exceedance or noncompliance.

(B) All costs to the City of monitoring, surveillance and enforcement in connection with investigating, verifying and prosecuting any discharge, violation, exceedance or noncompliance.

(C) The full amount of any fines, assessments, penalties and claims, including natural resource damages, levied against the City or any City representative by any governmental agency or third party as a result of a violation of applicable laws or regulations that is caused by or contributed to by any discharge, violation, exceedance or noncompliance.
(D) The full value of any City staff time (including any required overtime), consultant and engineering fees, and actual attorneys' fees and defense costs (including the City legal counsel and any special legal counsel) associated with responding to, investigating, verifying and prosecuting any discharge, violation, exceedance or noncompliance, or otherwise enforcing the requirements of this part.
(Code 2005, §75-53)

Sec. 75-54. Collection of costs; lien.
Costs incurred by the City pursuant to Sec. 75-51, 75-52, 75-53 and 75-55A shall constitute a lien on the property or premises, which shall be enforceable in accordance with Act No. 94 of the Public Acts of 1933, as amended from time to time, or as otherwise authorized by law. Any such charges that are delinquent for six months or more may be certified to the City of Galesburg Treasurer, who shall enter the lien on the next tax roll against the property or premises, 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 Act No. 94 of the Public Acts of 1933, as amended, and by other applicable laws.

The failure by any person to pay any amounts required to be reimbursed to the City as provided by this part shall constitute an additional violation of this part.
(Code 2005, §75-54)

Sec. 75-55. Suspension of access to stormwater drainage system.

(A) Suspension due to illicit discharges in emergency situations. The authorized enforcement agency may, without prior notice, suspend access to the stormwater drainage system to any property or premises when such suspension is necessary to stop an actual or threatened discharge that presents or may present imminent and substantial danger to the environment or to the health or welfare of persons or to the stormwater drainage system or a water body. If the property or premises owner fails to comply with a suspension order issued in an emergency, the authorized enforcement agency may take such steps as deemed necessary to prevent or minimize damage to the stormwater drainage system or the environment or to minimize danger to persons, and bill the property or premises owner for the costs incurred by the City.

(B) Suspension due to the detection of illicit discharge. Any person discharging to the stormwater drainage system in violation of this part may have his access to the system terminated, if the authorized enforcement agency determines that such termination would abate or reduce an illicit discharge. The authorized enforcement agency will notify a discharger of the proposed termination of access. It shall be unlawful for any person to reinstate access of the stormwater drainage system to a property or premises terminated pursuant to this section without the prior written approval of the authorized enforcement agency.
(Code 2005, §75-55)

Sec. 75-56. Appeals.
Any person who has been cited for a violation of this part or has been ordered to take action to comply with the provisions of this part may appeal in writing to the City Council of the City of Galesburg not later than 30 days after the action or decision being appealed. 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 authorized enforcement agency and the comments of other persons having knowledge or expertise regarding the matter. In considering any such appeal, the City Council may grant a
temporary variance from the terms of this part 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 ordinance provisions being appealed will present or cause unnecessary
hardship for the property or premises owner appealing; provided, however, that unnecessary
hardship shall not include the need for a property or premises owner to incur additional reasonable
expenses in order to comply with the part; and

(B) The granting of the relief requested will not prevent accomplishment of the goals and purposes
of this part, nor result in less effective management of stormwater runoff.
(Code 2005,§75-56)

Sec. 75-57. Judicial relief.
The City may institute legal proceedings in a court of competent jurisdiction to seek all
appropriate relief for violations of this part or of any permit, order, notice or agreement issued or
entered into under this part. The action may seek temporary or permanent injunctive relief,
damages, penalties, costs and any other relief, at law or equity, that a court may order. The City
may also seek collection of fines, penalties and any other amounts assessed and due to the City
that remain unpaid.
(Code 2005,§75-57)

Sec. 75-58. Cumulative remedies.
The imposition of a single penalty, fine, order, damage or surcharge upon any person for a
violation of this part or of any permit, order, notice or agreement issued or entered into under
this part shall not preclude the imposition by the City, the authorized enforcement agency, or a
court of competent jurisdiction of a combination of any or all of those sanctions and remedies or
additional sanctions and remedies with respect to the same violation, consistent with applicable
limitations on penalty amounts under state or federal laws or regulations. A criminal citation and
prosecution of a criminal action against a person shall not be dependent upon and need not be
held in abeyance during any civil, judicial or administrative proceeding, conference or hearing
regarding the person.
(Code 2005,§75-58)

Sec. 75-59 - 75-69. Reserved.

ARTICLE VII. INTERPRETATION

Sec. 75-70. Interpretation of words and phrases.
Words and phrases in this part shall be construed according to their common and accepted
meanings, except those words and phrases that are defined in Sec. 75-5 shall be construed
according to the respective definitions given in that section. Technical words and technical
phrases not defined in this part, but which have acquired particular meanings in law or in
technical usage, shall be construed according to such meanings.
(Code 2005,§75-70)

Sec. 75-71. Catch-line headings.
The catch-line headings of the articles and sections of this part are intended for convenience
only and shall not be construed as affecting the meaning or interpretation of the text of the
articles or sections to which they may refer.
(Code 2005,§75-71)
Sec. 75-72 - 75-199. Reserved.
Sec. 82-94 - Groundwater protection standards.

(1) Scope. These provisions shall apply to all businesses and facilities, including private and public facilities, which use, store, or generate hazardous substances in quantities greater than 100 kilograms per month (equal to 25 gallons or 220 pounds) and which require site plan review under the provisions of this ordinance.

(2) Standards.

a. Land use and the design of related improvements should seek to protect the natural environment, including wetlands, water bodies, watercourses, floodplains, groundwater, and soils.

b. The design of storm water management and drainage facilities should seek to retain the natural retention and storage capacity of any wetland, water body, or watercourse and not increase flooding or the possibility of polluting surface or groundwater, on-site or off-site.

c. General purpose floor drains shall be connected to an approved public sewer system, an on-site closed holding tank (not a septic system) or as authorized and regulated through a State of Michigan groundwater discharge permit.

d. Sites at which hazardous substances are stored, used or generated shall be designed to prevent spills and discharges to the surface of the ground, groundwater, lakes, streams, rivers, or wetlands.

e. State and federal agency requirements for storage, spill prevention, record keeping, emergency response, transport and disposal of hazardous substances shall be met. No discharges to groundwater, including direct and indirect discharges, shall be allowed without required permits and approvals.

f. Secondary containment for aboveground areas where hazardous substances are stored or used shall be provided. Secondary containment shall be sufficient to store the substance for the maximum anticipated period of time necessary for the recovery of any released substance.

g. Outdoor storage of hazardous substances shall be prohibited except in product-tight containers which are protected from weather, leakage, accidental damage, and vandalism, and where same complies with the standards of this Section with regard to secondary containment.

h. The design and construction of areas and facilities for loading/unloading of hazardous substances shall be designed to prevent spills and discharges to the surface of the ground, groundwater, lakes, streams, rivers, or wetlands.

i. Bulk storage facilities for pesticides and fertilizers shall be in compliance with requirements of the Michigan Department of Agriculture.

j. Out-of-service water wells shall be sealed and abandoned in accordance with applicable requirements of the Michigan Department of Public Health.

k. Underground storage tank installation, operation, maintenance, closure, and removal shall be in accordance with the requirements of the State Fire Marshall Division and the Michigan Department of Environmental Quality.

(Code 2005, §82-94)
Sec. 82-174. Application procedure.
A request for site plan review shall be made by filing with the city clerk the following:

Fee. A review fee, the schedule of which shall be determined by the governing body, will be paid by the applicant to cover the cost of processing the site plan.

(1) Application. Three (3) copies of the application for site plan review shall be filled out completely and returned to the clerk's office.

(2) Site Plan. Six (6) full size prints of the site plan and one (1) reduce size 11"x 17" print of the site plan shall be submitted to the clerk's office. Each print shall contain the following data:

a It shall be of a scale not greater than one (1) inch equals twenty (20) feet nor smaller than one (1) inch equals two hundred (200) feet and of such accuracy that the Planning Commission can readily interpret the plan.
b It shall show an appropriate descriptive legend, North arrow, scale, etc.
c A vicinity map shall be submitted showing the location of the site in relation to the surrounding street system.
d It shall identify subject property by lot lines and location, including dimensions, angles and size, correlated with the legal description of said property.
e It shall show the topography (at least 2 foot contour intervals), natural features such as woodlots, streams, rivers, lakes, drains and similar features.
f It shall show existing manmade features on, and within one hundred (100) feet of, the site, such as buildings, structures, high tension towers, pipe lines, existing utilities, such as water and sewer lines, etc., excavations, bridges, culverts, drains and easements and shall identify the existing uses and zoning of adjacent properties.
g It shall show the location, proposed finished floor and grade line elevations, size of proposed main and accessory buildings, their relation to one another and to any existing structures on the site, the height of all buildings and square footage of floor space. Site plans for multiple-family residential development shall include a density schedule showing the number of dwelling units per net acre, including a dwelling schedule showing the unit type and number of each unit type.
h It shall show the proposed streets, driveways, sidewalks and other vehicular and pedestrian circulation features within and adjacent to the site; also the location, size and number of parking spaces in the off-street parking areas and the identification of service lanes, and service parking and loading and unloading areas.
i It shall show the proposed location, use, and size of open spaces and the location of any landscaping, screening, fences or walls on the site. Any proposed alterations to the topography and other natural features shall be indicated.
j Architect's or Engineer's seal.
k Any other information deemed necessary by the Planning Commission.

(3) Environmental Checklist. The Applicant or Owner shall submit to the clerk's office a completed Environmental Checklist.

(4) Stormwater Management Plan. The Applicant or Owner shall submit to the clerk's office a Stormwater Management Plan and stormwater calculations.

Operations & Maintenance Agreement between the City and the Landowner or Designee and the applicable recording fee.

(Code 2005,§82-174)
ARTICLE VIII. AUTHORITY FOR STORMWATER MANAGEMENT

Sec. 75-200. General

The purpose of this article is to protect the public health, safety and welfare of city residents and to protect property values, quality of life, and natural systems relating to storm water runoff control and management. The city finds it is a matter of public concern and benefit to protect water bodies and properties within the city and to reduce the future need for public expenditures relating to flooding, water quality, and storm water system maintenance. Both the quality and quantity of storm water runoff are a matter of public concern. In addition to the requirements herein, a developer shall comply with the City of Galesburg Construction requirements pertaining to storm water sewer construction and storm water drainage regulations.

(Ord. No. 255, 11/30/2009)

Sec. 75-201. Findings and objectives.

The city finds that storm water regulation and management is a matter of public health, safety and welfare because:

(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 theregion.

(c) Changes in land use alter the hydrologic response of watersheds, resulting in increased storm water runoff rates and volumes, which further result in increased flooding, increased stream channel erosion, and increased sediment transport and deposition.

(d) Storm water runoff produced by changes in land use contributes to increased quantities of water-borne pollutants.

(Ord. No. 255, 11/30/2009)

Sec. 75-202. Definitions

For the purpose of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section unless the context in which they are used specifically indicates otherwise.

Best Management Practices (BMPs). A practice, or combination of practices and design criteria that comply with the Michigan Department of Environmental Quality's Guidebook of BMPs for Michigan Watersheds, or equivalent practices and design criteria that accomplish the purposes of this article (including, but not limited to minimizing storm water runoff and preventing the discharge of pollutants into storm water) as determined by the city engineer, and, when applicable, the standards of the Kalamazoo County Drain Commissioner.

Detention Basin. A structure or facility, natural or artificial, which stores stormwater on a temporary basis and releases it at a predetermined rate. A detention basin may drain
completely after a storm event, or it may be a pond with a fixed minimum water elevation between runoff events.

*Discharge*. The rate of flow or volume of water passing a given point. Expressed as cubic feet per second.

*Disturbed Area*. An area of land subject to the removal of vegetative cover and/or earthmoving activities.

*Drainage System*. All facilities, areas, and structures which serve to convey, store, or receive stormwater, either on a temporary or permanent basis.

*Drainage Way*. A natural or artificial facility, area, or structure which conveys or transports stormwater runoff from one location to a different location.

*Earth Change*. Any human activity which removes ground cover, changes the slope or contours of the land, or exposes the soil surface to the actions of wind and rain. Earth change includes, but is not limited to, any excavating, surface grading, filling, landscaping, or removal of vegetative roots.

*Erosion*. The removal of soil particles from the land by the action of water, wind, ice, or other geological agents.

*Infiltration*. The percolation and movement of water downward into and through the soil column. The rate of this movement is expressed in inches per hour.

*Grading*. Any stripping, excavating, filling, and stockpiling of soil or any combination thereof and the land in its excavated or filled condition.

*Offsite Facility*. Any portion of a storm water management system which is located off the development site which it serves.

*100-Year Flood*. That water occupation adjacent to a body of water which results from a storm event having a 1 percent probability of occurrence in any given year. Thus, a SO-year storm has a 2 percent probability, a ten-year storm a 10 percent probability, etc.

*Primary Drainage System*. Facilities, structures, and areas which convey, store, or receive runoff from storms up to a 10-year frequency.

*Receiving Body of Water*. Any watercourse or wetland into which surface waters are directed, either naturally or artificially.

*Retention Basin*. A holding area for stormwater, either natural or constructed, which does not have a positive outlet. Water is removed from retention basins through infiltration and/or evaporation processes, and may or may not have a permanent pool of water.

*Runoff*. The portion of precipitation which does not infiltrate or percolate into the ground, but rather moves over the land, eventually reaching a body of water, wetland, or low area.

*Secondary Drainage System*. Facilities, structures, and areas which convey, store or receive runoff from storms up to a 1DO-year frequency without causing serious damage to adjacent properties.
Sediment. Any solid particulate matter, both mineral and organic, which has been moved from the site of origin by erosion, is being transported by water, is in suspension in water, or has been deposited in a body of water, wetland or floodplain.

Site. Any tract, lot, or parcel of land or combination of tracts, lots, or parcels, which compose an area proposed for development and/or earth change.

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.

Storm Water Facility. Methods, structures, BMP's, areas, or related items, which are used to control, store, receive, infiltrate, or convey runoff.

Storm Water Runoff. The runoff and drainage of precipitation resulting from rainfall, snowmelt or other natural event or process.

Storm Water Management Plan. Maps and written information which describe the way in which stormwater will be controlled, both during and after construction.

Watercourse. Any waterway or other body of water having reasonably well defined banks, including rivers, streams, creeks and brooks, whether continually or intermittently flowing; and lakes and ponds, as shown on the official maps of the Michigan Department of Natural Resources and Kalamazoo County Drain Commissioner.

Wetland. Land characterized by the presence of water at a frequency and duration sufficient to support, and that under normal circumstances does support, wetland vegetation and/or aquatic life. Also known as a bog, swamp, marsh, etc. (from § 324.30301 of Michigan Complied Laws, Part 303 of NREPA, Wetlands Protection). The Michigan Department of Environmental Quality is the authority on the presence and regulatory status of wetlands. (Amend. Of 1-13-2003(2), § 1-3) (Ord. No. 255)

Sec. 75-203. Performance Standards

(1) Stormwater management areas and facilities, whether on-site or off-site, shall be designed, constructed, and maintained to prevent flooding and protect water quality. The design of any stormwater management system shall be based upon a 25-year frequency 24-hour duration storm event. In order to be approved, all stormwater management plans must meet the following performance standards:

(a) Runoff leaving the site shall be controlled to a non-erosive velocity, both during and after construction. (Ord. No. 255, 11/30/2009)

(b) Minimum Treatment Volume. A minimum treatment volume is established to provide pollutant removal (pre-treatment) for prevalent precipitation events. The minimum treatment volume standard shall be either one inch of runoff from the entire site or the calculated site runoff from the 90% annual non-exceedance storm, which is one inch for the City. Use of the US Geological Service (USGS) runoff curve number method is the preferred means to calculate site runoff.

Treatment methods shall be designed on a site-specific basis to achieve a minimum of 80% removal of total suspended solids (TSS), as compared with uncontrolled runoff, or discharge concentrations of TSS not to exceed 80 milligrams per liter (mg/l).
A minimum treatment volume standard is not required where site conditions are such that TSS concentrations in storm water discharges will not exceed 80 mg/l. (Ord. No. 258, 7/10/2010).

(c) Channel Protection Criteria. Channel protection criteria is established to protect stream channel bed and banks from excessive flows. The channel protection criteria is to maintain post-development site runoff volume and peak flow rate at or below existing levels for all storms up to the 2 year, 24 hour event. "Existing levels" means the runoff flow volume and rate for the last land use prior to the planned new development or-redevelopment.


Curve number evaluation is described in a document titled "Computing Flood Discharges for Small Ungauged Watersheds", July 2003, which can be found at [www.michigan.gov/deqstormwaterunder](http://www.michigan.gov/deqstormwaterunder) "Municipal Program/MS4 Permit Guidance" (go to "Storm Water Control Resources" and select "Guidance for Calculating Runoff Volume and Peak Flow Rate"). (Ord. No. 258, 7/12/2010)

(d) Riparian Buffers. A riparian buffer shall be provided for lands adjacent to streams and rivers and wetlands which are contiguous to these natural features. Riparian buffers shall also be required for noncontiguous wetlands if the full extent of the wetland as a natural feature is five (5) acres or greater.

The riparian buffer shall serve as a natural conservation area, where the principle best management practice is vegetative filtering and the conservation of trees, shrubs and herbaceous vegetation. The riparian buffer is a stormwater management measure to control soil loss and reduce water quality degradation caused by nutrients, animal wastes, toxics, sediment and runoff.

The riparian buffer shall begin at the edge of the stream bank of the active channel or the wetland boundary. The riparian buffer shall be composed of two distinct management zones in order to proscribe both permitted and restricted uses that provide progressive best management practices for stormwater quality protection.

(i). Zone 1- Stream Side Protection. Zone 1 begins at the edge of the stream bank or wetland and extends 25 feet upgradient and perpendicular to the protected natural feature. Zone 1 shall contain undisturbed natural vegetation. Allowable uses within this zone are restricted to flood control structures, utility rights-of-way, foot paths and road crossings where permitted. Highly restricted vegetative trimmings and removal of woody brush/trees is allowed to provide a limited viewshed of the protected natural feature.

(ii) Zone 2 - Outer Zone. The Outer Zone (Zone 2) begins at the outer limit of the Stream Side Protection Zone (Zone 1) and extends 25 feet. Allowable uses within the Outer Zone are biking or hiking paths, approved stormwater management facilities, approved recreational facilities and removal of mature tree cover. Shrub and herbaceous ground cover are to be protected from disturbance.
(iii) Permitted Activities. The following actions are permitted within Zones 1 and 2, provided the activity is undertaken in accordance with recognized best management practices. Other regulatory restrictions may apply, such as actions that may require separate federal, state or local permit or permit-by-rule provisions.

(a) Stream restoration projects conducted with advice and guidance of the County Conservation District.

(b) Removal of individual trees that are in danger of falling, causing damage to structures or causing blockage of the stream.

(c) Timber cutting techniques approved by state agencies, under advice and guidance, for purposes of forest management due to pest infestation, disease or threat from fire.

(d) Riparian buffers are intended to grow into their vegetative target state naturally, however, active methods to enhance successional process, reforestation or to ensure preservation of the buffer are allowed.

(iv) The width of each Zone may need to be increased is steep slopes are within close proximity of the protected natural feature. Guidelines of the US Geological Service may be used to determine the required equivalent length of vegetative filter capacity needed for slopes in excess of 15%.

(v) Encouragement of voluntary measures. Lands adjacent to the outer edge of the Outer Zone (Zone 2) are hereby defined as riparian lands. Riparian property owners have a unique and critical role in protecting water quality, preserving critical natural features and accommodating wildlife whose survival depends upon water features and conservation corridors. For example, some studies suggest that riparian buffers of 150 feet may be required for certain Michigan threatened species to successfully move between larger conservation areas and maintain health breeding populations. Therefore, it is a policy of the City to educate, outreach and otherwise assist riparian land owners in the implantation of additional voluntary stormwater best management practices.

(Ord. No. 258, 7/12/2010)

(2) Stormwater storage facilities which protect water quality and prevent adverse flooding on-site and off-site shall be required for all sites of one acre or more. In order to improve the quality of stormwater runoff and reduce the discharge of sediment into wetlands, watercourses, roadways, structures and other property within, and downstream of the city of Galesburg, the following techniques (a) through (f) and standards (g) through (i) shall be used:

(a) Infiltration of runoff provided that soils and groundwater conditions are suitable.

(b) Retention basins with a fixed minimum water elevation between runoff events (e.g., wet ponds).
(c) Detention basins which drain completely after a storm event (e.g., dry basins) but which discharge stormwater to wetlands or constructed basins which trap sediment carried by stormwater runoff.

(d) Detention basins which hold stormwater for more than 24 hours before completely draining to become a dry basin (Extended detention basins).

(e) Detention basins with a positive outlet shall be designed to hold runoff from a 10-year storm event, as a minimum. Retention basins without a positive outlet shall be designed to hold runoff from a 100-year storm event.

(f) The banks of detention basins shall not exceed a 1:5 slope unless a fence is constructed.

(g) Natural watercourses shall not be dredged, cleared of vegetation, deepened, widened, straightened, stabilized or otherwise altered without approval from the Michigan Department of Natural Resources and Kalamazoo County Drain Commissioner.

(h) Discharge of runoff from commercial and industrial sites which may contain oil, grease, toxic chemicals, or other polluting materials shall be prohibited unless approval has been obtained from the Michigan Department of Natural Resources and Kalamazoo County Drain Commissioner.

(i) The use of stormwater management areas and vegetated buffer areas as open space, recreation, and conservation areas shall be encouraged.

(j) Right of entry; furnishing information. Representatives of the city, State of Michigan DNR, and Kalamazoo County Drain Commission shall have the right to enter at any reasonable time any property served by a storm water drainage facility for inspections. On request, the owner, lessees or occupants of any property so served shall furnish to the inspection agency any pertinent information regarding the drainage system or systems on such property. The refusal of such information or refusal of access, when requested, shall be deemed evidence of the presence of unlawful discharge.

(Ord. No. 255, 11/30/2009)

(3) Pipes, conduits, ditches, drains, or other conveyance facilities shall not discharge directly to the following receiving waters without providing the minimum treatment volume and channel protection criteria:

(a) Any natural watercourses, including lakes, ponds, rivers and streams.

(b) Wetlands with unique or natural wildlife or habitat characteristics as defined by a professional wetlands delineation specialist, biologist or ecologist.

(c) Wetlands which are within a 500 foot distance of any natural lake or pond.

(d) Wetlands which are within a 100 foot distance of any river or stream.

(Ord. No. 258, 7/12/2010)

(4) Discharges from stormwater conveyance facilities shall be routed through swales, vegetated buffer strips, stormwater basins, hydrologically isolated wetlands, and other facilities designed to decrease runoff velocity and volume, allow for natural infiltration, allow suspended solids to settle, and remove pollutants.
(Ord. No. 258, 7/12/2010)

(5) If wetlands are proposed for stormwater detention, runoff must be diffused to non-erosive velocities before it reaches the wetlands.
(Ord. No. 258, 7/12/2010)

(6) Operation and Maintenance. All structural and vegetative best management practices installed as a performance standard for stormwater management shall include a plan for maintaining maximum performance through long-term operation and maintenance (O&M). The Plan shall include a schedule for O&M procedures and recordkeeping provisions such as periodic inspections.
(Ord. No. 258, 7/12/2010)

(7). Records Retention. Inspections and other records pertaining to the O&M of best management practices for stormwater water quality protection shall be maintained by the property owner and retained for a minimum of five years.
(Ord. No. 258, 7/12/2010)

(8). No stormwater management plan shall be approved if the City of Galesburg Planning Commission finds that the action will or is likely to pollute, impair or destroy air, water or other natural resources or the public trust therein, provided that there is a feasible and prudent alternative consistent with the reasonable requirements of the public health, safety and welfare.
(Ord. No. 258, 7/12/2010)
Chapters 76-77

RESERVED
Chapter 78

VEGETATION

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Article II. Trees

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Division 2. Private Trees

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Article III. Weeds (Ordinance 275)

Sec. 78-64. Definitions.
Sec. 78-65. Duty to Destroy/Cut Noxious Weeds, Uncontrolled Plant Growth, and Grasses.
Sec. 78-66. Administrative Procedures and Remedial Actions to Enforce Ordinance.
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ARTICLE I. IN GENERAL

Secs. 78-1-78-15. Reserved.

ARTICLE II. TREES

DIVISION 1. GENERALLY

Sec. 78-16. Definitions.

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

*Department* means the department of public works of the city.

*Park* includes all public parks having individual names, and all areas owned by the city, to which the public has free access as a park.

*Prohibited species* means any tree of the species of poplar (Populus Sp.), willow (Salix Sp.) and box elder (Acer Negundo).

*Public utility* means any person, owning or operating any pole, line, pipe or conduit located in any public street or over or along any public easement or right-of-way for the transmission of electricity, gas, telephone service or telegraph service.

*Street* means all the land lying between property lines on either side of all streets, highways and boulevards in the city.

*Superintendent* means superintendent of the department of public works.

*Tree*, unless the context clearly indicates otherwise, means trees, shrubs, bushes and all other woody vegetation.

(Code 2005,§78-16)

Sec. 78-17. Application of article provisions.

The provisions of this article, except as otherwise specifically stated herein, shall apply only to public streets, parkways, parks and other land publicly owned or controlled by the city.

(Code 2005,§78-17)

Sec. 78-18. Responsibility.

The public works administrator shall be charged with the duty of enforcing the provisions of this article.

(Code 2005,§78-18)

Sec. 78-19. Permits for tree planting, care, removal.

The superintendent shall have control over all trees located within the street rights-of-way and parks in the city and the planting, care and removal thereof, subject to the regulations contained in this article. The owner of land abutting on any street may, upon obtaining prior written permission of the superintendent, prune, spray, plant or remove trees in that part of the street...
abutting his land not used for public travel, but no person shall otherwise prune, spray, plant or remove any tree in any street or park. Every such permit shall specify the extent of the authorization and the conditions to which it is subject. Where an owner of abutting property requests the removal of a tree, the superintendent is authorized, in his discretion, to require as a condition to granting of approval for such removal, that such property owner make the removal in accordance with regulations established by the department and assume all or any part of the costs of removing such tree.

(Code 2005, §78-19)

Sec. 78-20. Public tree removal.

The department shall have the right to plant, trim, spray, preserve, and remove trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes, squares and public grounds, as may be necessary to ensure safety or to preserve the symmetry and beauty of such public grounds. The superintendent may remove or cause or order to be removed, any tree or part thereof which is in an unsafe condition, or which is of a prohibited species, or is affected with any injurious disease, fungus, insect or other pest. Whenever the department shall remove any tree, plant or shrub, solely for the purpose of constructing any public work, the superintendent shall, if practicable, replace the same at public expense, at some nearby location by planting another tree, plant or shrub, not necessarily of the same type.

(Code 2005, §78-20)

Sec. 78-21. Spacing of shade trees.

Future plantings of shade and ornamental trees in streets, parks and public places of the city may be done by the department upon payment of certain fees and charges and in accordance with such rules and regulations as may be established by the city council insofar as such rules and regulations do not conflict with any other provisions of this article. No future planting of shade and ornamental trees or shrubs in the highways, parks and public places by the owners or anyone employed by them shall be permitted without the approval of the superintendent and in compliance with the following rules as to spacing: Oak trees shall be spaced not less than 35 feet and other shade and ornamental trees not less than 30 feet. Provided, however, any owner of a single lot may in order to provide a shade or ornamental tree in front of his lot, secure special permission from the department to plant a shade or ornamental tree within a less distance from an existing tree than the spacing above mentioned, but shall in no case make special planting within 20 feet of any existing shade or ornamental tree located in the street or other public place. No tree shall be planted in parkways between the curb and sidewalk less than 3½ feet from the curb line, nor less than three feet from the sidewalk; provided, however, where the parkways are less than six feet six inches in width, any trees planted therein shall be located not less than two feet six inches from the curb and as near midway between the curb and sidewalk as possible. No tree shall be planted nearer to the intersection of any streets than 20 feet from the corner of such intersection.

(Code 2005, §78-21)

Sec. 78-22. Tree protection.

No person shall break, injure, mutilate, kill or destroy any tree or shrub, or set any fire within ten feet of any tree, or permit any fire, or the heat thereof, to injure any portion of any tree. No toxic chemicals or other injurious materials shall be allowed to seep, drain or be emptied on, near or about any tree. No electric wires or any other lines or wires shall be permitted to come in contact with any tree or shrub in any manner that shall cause damage thereto, and no person shall attach any electric insulation to any tree. No person shall use any tree as an anchor except by special written permit from the superintendent, and no sign, poster, notice or other material
shall be attached or fastened to or hung on any tree. All persons having under their care, custody or control, facilities which may interfere with the trimming or removal of any tree, shall after notice thereof by the department, promptly abate such interference in such manner as shall permit the trimming or removal of such tree by the department.
(Code 2005,$78-22)

Sec. 78-23. Excavations near trees.

Excavations and driveways shall not be placed within five feet of any tree without written permit from the superintendent. Any person making such excavation or construction shall guard any tree within six feet thereof with a good substantial frame box to be approved by the department, and all building material or other debris shall be kept at least four feet from any tree.
(Code 2005,$78-23)

Sec. 78-24. Corner clearance.

All shrubs and bushes located on the triangle formed by two right-of-way lines at the intersection of two streets, and extending for a distance of 20 feet each way from the intersection of the right-of-way lines on any corner lot within the city, shall not be permitted to grow to a height of more than 30 inches in height from top of curb at street level, in order that the view of the driver of a vehicle approaching a street intersection shall not be obstructed. Trees may be planted and maintained on private property in this area, provided that all branches are trimmed to maintain a clear vision for a vertical height of eight feet above the roadway surface. Any owner of any property failing to trim any trees, shrubs or bushes in conformity with this section or section 78-45, shall be notified by the superintendent in the manner provided in section 1-8 of this Code, to do so and such notice shall require trimming in conformity with this section within ten days after the date of such notice. Upon the expiration of such period, the superintendent may cause the trimming to be done and the cost thereof may be collected from the owner of said property as a single lot assessment in accordance with chapter 62 of this Code.
(Code 2005,$78-24)

Sec. 78-25. "Dutch Elm" disease.

Every elm tree, regardless of species or variety, infected with the fungus ceratostomella ulmi, popularly called Dutch Elm Disease, shall be cut and burned; if on public property, within ten days after the superintendent shall learn of the condition and, if on private property, within ten days after notice as specified in section 78-46. No person shall possess, sell, give away or transport any elm tree afflicted with the fungus ceratostomella ulmi nor any wood from, or parts of, any tree so afflicted, except that wood, branches and roots of any tree so afflicted may be transported to a place for burning if first treated in a manner approved by the superintendent.
(Code 2005,$78-25)

Sec. 78-26. Appeal from treatment or destruction of tree.

In case the owner, agent or occupant of the property shall feel himself aggrieved at an order of the superintendent requiring the treatment or destruction of any tree, he may within 48 hours make an appeal to the city council by filing a written request with the city clerk. The city council shall hear such appeal at its next regular meeting, unless another time shall be set, and shall determine the matter under such expert advice as may be necessary.
(Code 2005,$78-26)

Sec. 78-27. Lawn extensions.
On residence streets, the abutting owner or occupant may maintain a planting strip on the lawn extension between the sidewalk and curb and may plant flowers, trees and shrubbery therein in conformity with this article. No person shall willfully injure or destroy any grass, flower, tree or shrub, upon any such planting strip or throw any papers, refuse or other thing thereon. No person shall drive an automobile, bicycle or other vehicle upon or over any such planting strip.
(Code 2005,§78-27)


The superintendent shall grant permission to public utilities to trim and keep trimmed all trees within the streets, alleys, parks and public places of the city, in such a manner as shall keep the overhead lines of such public utilities safe and accessible. Such trimming shall be done in accordance with approved practices and under the general direction of the department. Said permission, as provided for in this section, shall require reasonable prior notice to the city before any work is commenced thereunder. Provided, however, that in the event of an emergency requiring immediate maintenance work on the overhead lines of said public utilities, prior notice of commencing work under said permit shall not be required. The word "emergency" as used in this section, shall be defined to mean the occurrence or happening of an event which could not be foreseen by the exercise of reasonable care and foresight, which might cause damage to the overhead lines of the public utilities.
(Code 2005,§78-28)

Sec. 78-29. Rules and regulations.

The superintendent shall make such rules and regulations supplementary to this article and not in conflict herewith, as he may from time to time deem necessary. Until changed pursuant to this section, the rules and regulations in effect at the adoption of this Code, shall continue in effect. No person shall fail to obey any rule or regulation effective hereunder.
(Code 2005,§78-29)

Secs. 78-30-78-44. Reserved.

DIVISION 2. PRIVATE TREES

Sec. 78-45. Clearance.

Every owner of any tree on private property overhanging any street or right-of-way within the city shall trim the branches so that such branches shall not obstruct the light from any street lamp or obstruct the view of any street intersection and so that there shall be a clear space of eight feet above the surface of the sidewalk and any part of the street right-of-way except roadway, and at least 12 feet above any roadway or part of any street intended for vehicular traffic. Said owners shall remove all dead, diseased or dangerous trees, or broken or decayed limbs which constitute a menace to the safety of the public. The city shall have the right to trim any tree or shrub on private property when it interferes with the proper spread of light along the street from a street light, or interferes with visibility of any traffic control device or sign, such trimming to be confined to the area immediately above the right-of-way.
(Code 2005,§78-45)

Sec. 78-46. Diseases and infestations.

When the superintendent shall discover that any tree growing on private property within the city, is afflicted with any dangerous and infectious insect infestation or tree disease, he shall forthwith serve a written notice upon the owner or his agent, or the occupant of the property, in
the manner specified in section 1-8 of this Code, describing the tree, its location and the nature of the infestation or tree disease and ordering the owner, agent and occupant to take such measures as may be reasonably necessary to cure such infestation or disease and to prevent the spreading thereof, specifying the measures required to be taken. Such order may require the pruning, spraying or destruction of trees as may be reasonably necessary. Every such notice shall be complied with within ten days after service thereof, upon the owner, agent or occupant of the property on which the afflicted tree is located, or within such additional time as may be stipulated in such notice.

(Code 2005, §78-46)

Sec. 78-47. Owner's failure to comply.

In case the owner, agent and occupant of the property refuse to carry out the order of the superintendent within the time limited, or in case of an appeal, within five days after the council shall have affirmed such order, the superintendent shall carry out the pruning, spraying or destruction of the trees as deemed necessary by him and shall bill the owner, agent or occupant of the property for the cost thereof. In case the owner of such property shall fail to pay such bill within 60 days after the same has been rendered, the superintendent shall report the same to the city council for collection as a single lot assessment against said property in accordance with chapter 62. The superintendent may, without serving the above notice, when the owner or occupant of any private property shall consent thereto and pay the reasonable cost thereof, cause trees growing on private property to be sprayed when he deems the same necessary on account of any infestation or disease or threat thereof.

(Code 2005, §78-47)

Sec. 78-48. Inspection.

The superintendent and his assistants and employees shall have authority to enter upon private premises for the purpose of examining any trees, shrubs, plants, or vines for the presence of destructive insects or plant diseases. No damages shall be awarded for the destruction of any tree, shrub, or plant or fruit or injury to the same, if done by the superintendent or under his direction, in accordance with this article.

(Code 2005, §78-48)

Secs. 78-49-78-63. Reserved.

ARTICLE III. WEEDS

Sec. 78-64. Definitions.

As used in this ordinance the following words and terms shall have the meanings stated herein:

A. “Noxious Weeds” means Canada thistle (Circium Arvense), dodders (any species of Cascuta), mustards (charlock, black mustard and Indian mustard, species of Brassica or Sunapis), wild carrot (Daucus Carota), bindweed (Convvolulus Arvensis), perennial sowthistle (Sonchus Arvensis), perennial sowthistle (Sonchus Arvensis), hoary alyssum (Berteroa Incana), ragweed (Ambrosia Elatior 1.), poison ivy (Rhus Toxicodendron), poison sumac (Toxicodendron Vernix), and any other plant species which the City Council determines, by resolution, is regarded in the community as a common nuisance weed.
B. “Weeds and grasses” shall include, but are not limited to, vegetation which emit unpleasant, unhealthy or noxious odors or pollen, any high growth of vegetation including grasses which might conceal rubbish, waste materials, trash or which may constitute a fire hazard.

C. “Uncontrolled Plant Growth” means any non-woody vegetation exceeding a height of 12 inches; except where such vegetation is not out of character with the development of and landscaping in the surrounding area within 500 feet, and also excepting all small grain or food crops, such as wheat, corn, oats, barley or rye, and garden vegetables.

D. “Owner” and “occupant” shall mean any person or entity with any ownership or possessory right or interest, including deed holders and land contract vendees (whether recorded or unrecorded), mortgagees, lessees, and other tenants, residents, and any agent of any of same.

(Ord. No. 275, effective 4/2020)

Sec. 78-65. Duty to Destroy/Cut Noxious Weeds, Uncontrolled Plant Growth, and Grasses.

A. The owner and occupant of land on which noxious weeds are found growing shall destroy such weeds before they reach a seed bearing state, or a height of 8 inches, whichever occurs first, and shall prevent their regrowth; provided that this requirement shall not apply to any incidental noxious weeds in fields devoted to growing any small grain or vegetable crop.

B. No owner or occupant occupying or in control of any lot or land within the limits of the city shall allow or maintain on such lot or land within 50 feet of any occupied building or public right of way any growth of noxious weeds plant growth, or grasses which have obtained the height of 8 inches.

(Ord. No. 275, effective 4/2020)

Sec. 78-66. Administrative Procedures and Remedial Actions to Enforce Ordinance.

A. The City shall give notice of the application of this ordinance by one or both of the following means:

(1) publish in a newspaper of general circulation in the City during the month of March a Notice that weeds and/or plant growth in violation of this ordinance not destroyed/cut by May 1 of that year as required by this Ordinance may be destroyed/cut by the City, and that the owner of any such land shall be charged with the expenses incurred by the City to destroy/cut such weeds/plant growth as many times as is necessary to keep the land in compliance with this ordinance, and that the City shall have a lien against the land for the amount of such expenses, and that such lien shall be enforced in the manner provided by state law for the enforcement of real property tax liens; and/or

(2) mail by certified mail with return receipt requested a notice to the owner, occupant or agent of any lands in violation of this ordinance, describing the methods of treating and eradicating the weeds and/or of otherwise complying with this ordinance, and giving notice of those matters referenced in subsection (1) immediately above. Failure to give such notice shall not constitute a defense to any action to enforce the payment of any penalty or debt provided for in this ordinance.

B. If the owner/occupant/agent has failed or refuses to comply with the ordinance after the publication of the “Notice of Obligation to Cut Weeds” provided for in Section 78-65(A) above, the City or its agent/designee may enter upon such land with or without mechanical equipment and destroy/cut the weeds/plant growth thereon in violation of this ordinance.
C. All expenses incurred in such destruction/cutting shall be paid by the owner of such land. The City shall have a lien upon such land for the full amount of such expenses, which may be enforced in the same manner as the enforcement of real property tax liens through entry upon the next tax roll of the City and assessment as a general City tax. Such expenses shall be subject to all interest and penalties provided for taxes due and collectible within the City under the general tax laws of the State of Michigan. In addition to the foregoing, the City may sue the owner in an appropriate court of law for the collection of such expenses.
(Ord. No. 275, effective 4/2020)

Sec. 78-67. Violations and Enforcement.

A. Any person or entity who violates, disobeys, neglects or refuses to comply with any provision of this Ordinance, or any order issued under the Ordinance, including any conditions imposed thereon, or who causes, allows, or consents to any of same, shall be deemed to be responsible for a violation of this Ordinance.

Any person or entity responsible for a violation of this Ordinance, whether as an occupant, owner, licensee, agent, contractor, servant, employee, or otherwise, shall be liable as a principal. Each day that a violation exists shall constitute a separate offense.

B. Any violation of this Ordinance shall constitute a basis for such judgment, writ or order necessary to compel compliance with the Ordinance and/or to restrain and prohibit continuation of the violation, or other appropriate relief in any court of competent jurisdiction, in addition to any other relief or sanction herein set forth or allowed by law.

C. A violation of this Ordinance is a municipal civil infraction as defined by Michigan statute and shall be punishable by a civil fine determined pursuant to City of Galesburg’s Fee Schedule.

Additionally, the violator shall pay costs which may include all expenses, direct and indirect, which the City has incurred in connection with the municipal civil infraction.

D. This ordinance shall be administered and enforced by the person designated by the City Council as the City Noxious Weed Commissioner, by the Ordinance Enforcement Officer(s) of the City, or by such other person(s) as the City Council may designate from time to time.

This Ordinance is adopted pursuant to Act 359 of 1941 and Act 279 of 1909; to secure the health, safety and welfare of the people of the City, to protect agricultural crops from invasive plant species, and to avoid a blighting factor, by the control, regulation, and eradication of certain noxious weeds, and also certain plant growth of excessive height; to establish remedies, provide for the enforcement and fix sanctions for the violation of this ordinance. All Ordinances or parts thereof in conflict herewith are hereby repealed and shall be of no further force and effect.
(Ord. No. 275, effective 4/2020)

Chapters 79-81
RESERVED
CHAPTER 82
ZONING

Chapter 82, Zoning, of the Galesburg City Code, City of Galesburg, Michigan, published by order of the City Council has been posted as a separate document.
CHAPTER 83  
SIGN CODE (Pursuant to Ordinance #256)  
(Sec. 82-87 Repealed)  

Article I. Sign Code

Sec. 83-50.Intent  
Sec. 83-51.Definitions  
Sec. 83-52.General Regulations  
Sec. 83-53.General  
Sec. 83-54.Sign message  
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Sec. 83-57.Signs not to constitute a traffic hazard  
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Sec. 83-72.Existing Nonconforming Signs.  
Sec. 83-73.Signs Permitted.  
CHAPTER 83. SIGN CODE

Article I SIGN CODE

Sec. 83-50. Intent

The purpose of this Article is to protect and promote the health, safety and welfare of City of Galesburg Residents and to provide authority for permitting such signs as will not, by reason of their size, location, construction, or manner of display, endanger life and limb, confuse or mislead traffic, obstruct vision necessary for traffic safety, or otherwise endanger the public health or safety; and further, to regulate such permitted signs in such a way as to prevent such signs from causing annoyance or disturbance to the residents of the City.

Sec. 83-51. Definitions

As used in this article the following words shall have the meanings set forth below. Signs shall comply with the applicable provisions set forth below and elsewhere in this article.

Abandoned Sign; Means a sign which advertises a business, lessor, owner, product, or activity no longer conducted or available.

Accessory Use; Means a use incidental to the principal use of a building.

Animated sign; Means any sign that uses movement or change of lighting to depict action or create a special effect or scene.

Area identification sign; Means a sign to identify a common area containing a group of structures, or a single structure on a minimum site of two acres, such as a residential subdivision, apartment complex, industrial park, or shopping area, located at the entrance of the area, and consisting of a fence or wall or archway with letters or symbols affixed thereto.

Awning sign; Means any sign painted or applied to the surface of an awning or canopy.

Banner; Means a sign intended to be hung either with or without a frame, possessing characters, letters, illustrations, or ornamentations applied to paper, plastic, or fabric of any kind excluding flags, emblems, and insignia or political, professional, religious, education, or corporate organizations providing that such flags, emblems and insignia are displayed for noncommercial purposes.

Beacon; Means any light with one or more beams directed into the atmosphere or directed at one or more points not on the same zone lot as the light source; also, any light with one or more beams that rotate or move.

Billboard; Means a display sign that contains a message unrelated to or not advertising a business transacted or goods sold or produced on the premises on which the sign is located.

Broken sign; Means a sign composed of individual letters fastened to a building surface.

Building Marker; Means any sign indicating the name of a building and date and incidental information about its construction, which sign is cut into a masonry surface or made of bronze or other permanent material.
Bulletin Board/Public Announcement Sign; Means a sign related to a public school, parochial school, private school, public park or recreation facility, church or other religious or governmental institution, which identifies activities or events to take place involving the patrons of such specific use.

Canopy sign; Means any sign that is a part of or attached to an awning, canopy, or other fabric, plastic, or structural protective cover over a door, entrance, window, or outdoor service area. A marquee is not a canopy.

Changeable Copy Sign/reader board; Means a sign or portion thereof with characters, numbers, letters, or illustrations that can be changed or rearranged without altering the face or the surface of the sign. A sign on which the message changes more than eight times per day shall be considered an animated sign and not a changeable copy sign for purposes of this Ordinance. A sign on which the only copy that changes is an electronic or mechanical indication of time or temperature shall be considered a "time and temperature" sign and not a changeable copy sign for purposes of this ordinance.

Decorative display; Means a temporary display designated for the entertainment or cultural enrichment of the public and having no direct or indirect sales or advertising content.

Directional sign; Means a sign of a noncommercial nature which directs the reader to the location of public or educational institutions, or to the location of historical structures or areas, or to the location of public parks or buildings.

Display sign; Means a structure or device that is arranged, intended, designed or used as an advertisement, announcement or direction.

Election campaign sign; Means a sign advertising a candidate or soliciting votes in support of or against any proposition or issue at any general, primary, special, school or any other election. Permanent billboards advertising such political matters shall not constitute an election campaign sign.

Erect; Means to build, construct, attach, hang, place, suspend or affix.

Flag; Means any fabric, banner, or bunting containing distinctive colors, patterns, or symbols used as a symbol of government, political subdivisions, or other entity.

Flashing sign; Means an illuminated sign on which artificial or reflected light is not maintained stationary and constant in intensity and color at all times when in use.

Freestanding sign/ground sign; Means a sign which is attached to or a part of a completely self-supporting structure. The supporting structure shall be set firmly in or below the ground surface and shall not be attached to any building or any other structure whether portable or stationary.

Height; Means the height of a sign which shall be computed as the distance from the base of the sign at normal grade to the top of the highest attached component of the sign. Normal grade shall be construed to be the lower of 1) existing grade prior to construction; or 2) the newly established grade after construction, exclusive of any filling, berming, mounding, or excavating solely for the purpose of locating the sign. In cases in which the normal grade cannot reasonably be determined, sign height shall be computed on the assumption that the elevation of the normal grade at the base of the sign is equal to the elevation of the nearest point of the crown of a public street or the grade of the land at the principal entrance to the principal structure on the zoning lot, whichever is lower.

Identification sign; Means a sign stating the name or description of the use of the premises on which the sign is located.
Incidental sign; Means a sign, generally informational, that has a purpose secondary to the use of the lot on which it is located, such as "no parking," "entrance," "loading only," "telephone," and other similar directives.

Illuminated sign; Means any sign which has characters, numbers, letters, figures, designs or outline illuminated by electric lights or luminous tubes as a part of the sign proper.

Marquee sign; Means a display sign attached to or hung from a marquee, canopy or other structure projecting from and supported by the building and extending beyond the building wall, building fine or street lot fine.

Marquee; Means any permanent roof like structure projecting beyond a building or extending along and projecting beyond the wall of the building, generally designed and constructed to provide protection from the weather.

Monument Sign; Means a sign not more than six feet high as measured from the ground, attached to a permanent foundation and not attached or dependent for support from any building pole, posts, or similar up-rights.

Newly Established Subdivision or Development Sign; Means a sign advertising a newly established recorded residential subdivision or development and the sale or rental of lots or premises therein. Such sign may be erected for a period not to exceed two (2) years.

Non accessory sign; Means a sign which is not accessory to the main or principal use of the premises.

Nonconforming sign; Means any sign that does not conform to the requirements of this ordinance.

Painted wall sign; Means any sign that is painted on the wall of a building.

Portable sign; Means any sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported, including, but not limited to, signs designed to be transported by means of wheels; sign converted to A-. or T-frames; menu and sandwich board signs; balloons used as signs; umbrellas used for advertising; and signs attached to or painted on vehicles parked and visible from the public right-of-way, unless said vehicle is used in the normal day-to-day operations of the business.

Projecting sign; Means a display sign which is affixed to any building or structure other than a marquee, any part of which sign extends beyond the building wall and the horizontal surface of which sign is not parallel to the building wall.

Real estate sign; Means a sign placed upon a property advertising that particular property for sale, rent, or lease.

Residential sign; Means any sign located in a district zoned for residential uses that contains no commercial message except advertising for goods or services legally offered on the premises where the sign is located, if offering such service at such location conforms with all requirements of the zoning ordinance.

Development Sign; Means a sign placed on the premises of a subdivision, or other real estate development site, to identify a proposed start of development, the participants of such development (such as owner, contractor, architect, leasing agent, etc.) and relative date of availability.
Roof sign; Means a display sign which is erected, constructed and maintained above a portion of the roof or exterior wall of a building or structure or which is attached to an exterior wall at a height in excess of three feet above the horizontal plane of the roof abutting such wall.

Shopping Center; Means a group of three or more stores, offices or shops selling merchandise or services and served by a common off-street automobile parking area which is located on private property. All stores, offices or shops served by one parking area shall be considered one shopping center.

Sign; A name, identification, description, display, device, structure, or illustration which is affixed to, or painted or otherwise represented directly or indirectly upon a building, structure, or parcel of land, and which directs attention to an object, product, place, activity, person, institution, organization, or business.

Streamers; Means strips or ribbons of lightweight plastic, fabric, or other material whether or not containing a message of any kind, suspended from a rope, wire, or string, designed to move in the wind.

Structural trim; Means the molding battens, cappings, nailing strips, latticing and platforms that are attached to the sign structure.

Surface; Means that part of a sign upon, against or through which the message is displayed or illustrated.

Suspended Sign; Means a sign that is suspended from the underside of a horizontal plane surface and is supported by such surface.

Swinging sign; Means a sign which is designed or constructed to move or pivot as a result of wind pressure for the purpose of attracting attention.

Temporary sign; Means a display sign, banner or other advertising device constructed of cloth, canvas, fabric, plastic or other light temporary material, with or without a structural frame, or any other sign intended for a limited period of display, but not including decorative displays for holidays or public demonstrations. Any sign that is used only temporarily and is not permanently mounted.

Total surface area of sign; Means the sum total of all exterior surfaces of a sign computed in square feet. The area shall be determined using the largest sign area or silhouette visible at any one time from any one point including all displays and background. This area does not include the main supporting sign structure or supporting framework, bracing or decorative fence or wall when such fence or wall when such fence or wall otherwise meets zoning ordinance regulations and is clearly incidental to the display itself. In the case of a broken sign, the total surface area shall be measured by multiplying the height of the individual letters or combination of letters by the distance between the outer edges of the two furthermost letters.

Wall sign; Means a display sign that is attached directly to a building wall, the horizontal surface of which sign is parallel to the building wall.

Window sign; Means signs painted on, or affixed to glass surfaces of windows or doors and pertaining to and identifying only the lawful business conducted therein.

Sec. 83-52. General Regulations

Prohibited Signs: It shall be unlawful for any person to erect, maintain, relocate or keep any sign as defined in this section.

a. A sign which copies or imitates or in any way approximates an official highway sign or carries the words "stop", "look", or "danger", or any word phrase, symbol or character in such a manner as to interfere with, mislead, or
confuse traffic; any sign which obscures a sign displayed by a public authority for the purpose of giving traffic instruction or direction or other public information; or any sign that is erected in such a manner as to interfere with obstruct the view of, or be confused with an authorized traffic sign, signal or device.

b. A sign which obstructs any window or door opening used as a means of egress or prevents free passage from one part of a roof to any other part thereof. A sign which interferes with an opening required for legal ventilation.

c. Abandoned signs.

d. Signs which contain statements, words, or pictures of an obscene, indecent, pornographic, or immoral character.

e. Signs which emit audible sound, odor, or visible matter.

f. Signs placed on any utility pole, light pole, telephone pole, stop sign, traffic sign, etc. except for utility identification or similar purpose.

83-53. General

Requirements for signs in commercial and industrial districts. All signs permitted in those areas designated as commercial and industrial districts, including the Residential-Transitional (r-T) shall meet the following general requirements:

83-54. Sign message

No sign shall be constructed or maintained which does not advertise a business transacted or goods sold or produced on the premises on which the sign is located. Any sign erected prior to the adoption of this section and complying with the provisions of this ordinance prior to the adoption of this section may continue to be maintained for not more than two years so long as it continues to comply with all other provisions of this ordinance.

83-55. Illumination permitted

Reflectors, lights and other forms of illumination shall be permitted on all signs. No sign shall be illuminated in such a manner as to interfere with mislead or confuse traffic. No rotating illuminated beacon shall be permitted. In no case shall any sign illumination exceed a level of 0.08 foot-candles, and a luminary brightness of 2,400 foot-lamberts (glare measurement) when measured from the nearest or adjacent residentially zoned property.

83-56. Obstruction to doors, windows and fire escapes.

No sign shall be erected, relocated or maintained so as to prevent free ingress to or egress from any door, window or fire escape. No sign of any kind shall be attached to a standpipe or fire escape.

83-57. Signs not to constitute a traffic hazard.

No ground sign shall be erected at the intersection of any streets in such a manner as to obstruct free and clear vision or at any location where by reason of its position, shape or color, it may interfere with, obstruct the view of, or be confused with an authorized traffic sign, signal or device, or make use of the
words "stop", "look", "danger" or any phase, symbol or character in such manner as to interfere with mislead or confuse traffic. At street intersections no signs, other than municipal traffic control signs, shall be located within ten feet of the ground surface in the triangle formed by the property lines paralleling the streets and extending for a distance of 25 feet each way from the intersection of the right-of-way lines at the corner lot. No sign, signal, marking device or blinking, oscillating or rotating light shall be erected adjacent to any public right-of-way so as to create a traffic hazard.

83-58. Face of Sign to be smooth

No nails, tacks or wires shall be permitted to protrude from the front of any sign. This shall not exclude, however, the use of block letters, electrical reflectors or other devices which may extend over the top and in front of the advertising structure.

83-59. Obscene matter prohibited.

No person shall display upon any sign or other advertising structure any obscene or indecent matter.

83-60. Removal of Certain signs

Any sign now or hereafter existing which, at the time of construction, advertised a business being conducted or a product being sold or produced on the premises on which the sign is located, but no longer does so, shall be taken down and removed or completely renovated by the owner, agent or person having the beneficial use of the building, structure or premises upon which such sign is found within 30 days after written notice to remove such sign from the City.

83-61. Signs in public right of way

No sign in these districts shall be erected or placed in a public right of way or be allowed to project into a public right of way. The owner of a sign which has been removed from a right of way because of a violation of this subsection shall pay the sum as established by resolution by the City Council plus removal costs. If a sign is not claimed within 30 days, it shall be destroyed.

83-62. Flashing or moving signs

No sign or any part thereof shall move, nor shall the illumination of any sign or any part of such illumination be anything other than a steady, continuously burning bulb or light. The flashing or turning on and off of sign illumination of any bulb or component part thereof is prohibited. Further, no person shall on premises owned, managed, rented, or controlled by themselves, permit, use, or allow to be used a strobe light(s), or similar blinking or flashing lights (except Christmas type decorations between November 15, and January 5) within 100 feet of any road, street or highway used by the public.

83-63. Billboards; Billboards are not permitted in the City.

83-64. Measurement of Surface Display Area.

In this article, whenever a maximum surface display area of a sign is specified, such surface display area shall be computed as follows:

If a sign has only one exterior face, the surface display area of that face shall not exceed the specified maximum.
If a sign is double faced (i.e., has back to back exterior faces) the surface display area of each face shall not exceed the specified maximum. However, if a sign is V-shaped then the total surface display area of the entire sign shall not exceed the specified maximum.

If a sign has more than two exterior faces, the sum of the surface area of all of the faces shall not exceed twice the specified maximum.

The surface display area of a sign, for the purposes of this ordinance, shall be computed around the perimeter of its frame or border where such exists or around the perimeter of its symbols or letters or other display elements where no border or frame exists. The area of a sign shall not include the area of its supporting structure if the supporting structure contains no advertising or surface display lighting. Decals or wording on a sign identifying the regional or national affiliation of a business or facility shall be included in computing the area of the sign.

83-65. Signs Prohibited

A sign not expressly permitted by this Ordinance is prohibited.

83-66. Illumination

All permitted illuminated signs shall be subject to the following regulations.

Such illumination shall be concentrated on the surface of the sign and shall be so located and arranged as to avoid glare or reflection onto any portion of an adjacent street, the path of oncoming vehicles, or any adjacent premises.

In no event shall any sign have flashing or intermittent lights nor shall the lights be permitted to rotate or oscillate. This restriction shall not be deemed to prohibit a time and temperature sign. A sign shall not be illuminated in a manner which causes it to obscure, or interfere with the effectiveness, of an official traffic sign, device, or signal. Nor shall any sign be illuminated in a manner which could be confusing to motorists or which, due to color of light or otherwise, could be misinterpreted for a traffic or danger signal.

Neon or neon-type lighting which is configured in such a manner as to form letter or a symbol shall be considered a sign and regulated as such. Neon or neon-type lighting which forms a border for a symbol or letters advertising a business, produce or service shall be considered part of a sign, the area of which shall be computed on the basis of the area within the perimeter of the border. Neon-type lighting consisting of an uninterrupted strands or double strand of lighting along and parallel to the uninterrupted eave line of the roof of not more than three sides of the building to which the lighting is attached shall also be allowed and shall not be regulated as a sign.

83-67. Signs with an electronic LED

Signs with an electronic LED or similar reader board display shall be permissible provided:

(1) The display contains only stationary text and graphics, or
(2) No portion of the display is flashing, or
(3) The display changes no more frequently than once each 5 seconds.

The provisions of this section shall apply not only to exterior signs, but also to interior signs which are designed or placed to show through windows or doors of buildings.

83-68. Setback
Except where expressly provided otherwise in this Ordinance, all freestanding signs with a surface display area exceeding sixteen (16) square feet shall be located no closer than one-half (1/2) of the required building setback from the front, rear, and side yard property lines. No sign shall be located in a street right-of-way. In no event may a sign be erected or placed so as to create a traffic hazard or as to adversely affect the safety of vehicular or pedestrian traffic traveling or entering upon adjacent public streets.

83-69. Permit Requirement

No permanent sign shall be erected within the City of Galesburg until a permit therefore has been obtained from the Galesburg Building Inspector. Application for the permit required hereunder shall be on an application form from the City Building Inspector, accompanied by such fee as may from time to time be determined by resolution of the Galesburg City Council. No permanent sign permit shall be issued until the City Building Inspector is satisfied that the sign to be constructed or altered complies with the provisions of this Ordinance. No permit shall be required for election campaign signs.

83-70. Height

No freestanding sign shall exceed a height of thirty (30) feet above the grade of the abutting street or highway.

83-71. Construction and Maintenance

The construction of any sign shall be such that it will withstand all wind and vibration forces which can be normally expected to occur in the vicinity. All signs shall be properly maintained. Such maintenance shall include proper alignment of structure, continued structural soundness, continued readability of message, and preservation of structure with paint or other surface material.

83-72. Existing Nonconforming Signs

The following restrictions are imposed:

No existing nonconforming sign shall be enlarged or altered in a way which increases its nonconformity.

No existing nonconforming sign shall be replaced by another nonconforming sign.

If an existing non-conforming sign has been damaged by reason of wind storm, fire, any act of God, or the public enemy, the sign shall not be continued or rebuilt except in conformance with the provisions of this ordinance.

Whenever the activity, business, or usage of a primary premises to which a sign is attached or related has been discontinued for a period of one year or longer, such discontinuance shall be considered conclusive evidence of an intention to abandon legally the lawful nonconforming sign attached or related thereto. At the end of this period of abandonment, the nonconforming sign shall either be removed or altered to conform with the provisions of this Ordinance.

83-73. Signs Permitted

Signs are permitted according to the district in which they are located. Certain types of signs are permitted in certain districts according to the following regulations.

A. OS - Open Space Districts A-H;
The following types of signs are permitted.

Home Occupation: One non-illuminated sign announcing a home occupation, not to exceed two (2) square feet in surface display area and which shall be attached to the building and contain only the name and occupation of the resident of the premises.

New Established Subdivision or Development Sign: One non-illuminated, sign advertising a newly established recorded subdivision or development and the sale or rental of lots or premises thereon, not to exceed thirty-two (32) square feet. Use of the sign shall not exceed a period of two years.

Residential Development Entry Sign: One permanent sign, which may be illuminated, may be permitted at each entrance to a residential subdivision or development, including a mobile home park or an apartment building or complex. The surface display area of the sign may not exceed thirty-two (32) square feet and may include only the name of the development and the name and telephone number of the developer.

Institutional Uses: One freestanding sign for institutions for human care, churches, educational, or social institutions and governmental buildings, not to exceed thirty-two (32) square feet or 10 percent of the area of the wall to which they are attached, whichever is less, shall be permitted. The signs may be illuminated.

Construction Sign: One non-illuminated sign announcing the names of architects, engineers, and/or contractors of a building under construction, alteration or repair, and announcing the character of the building enterprise or the purpose for which the building is intended may be allowed provided such sign shall not exceed thirty-two (32) square feet in surface display area. Such sign may be a flat wall sign, or freestanding with a maximum height of eight (8) feet above the grade of the abutting street or highway.

Sign Announcing Philanthropic or Governmental Event: One sign may be permitted for a period of not to exceed fifteen days for purposes of advertising a charitable event. Such sign shall be no larger than thirty-two (32) square feet in surface display area. Such sign may be illuminated.

Election Campaign signs: Are subject to the following conditions:

1. Election campaign signs must be removed within ten (10) days after the election to which such sign pertained.

2. No election campaign sign shall be erected or placed so as to create a traffic hazard or cause an adverse effect to vehicular or pedestrian traffic traveling or entering upon adjacent public highways and streets and cannot be placed in the City right-of-way. Election campaign signs may be illuminated.

Sign for Seasonal Sale of Agricultural Produce: One sign may be allowed advertising permitted seasonal sales of agricultural produce. The sign may be displayed for not more than two periods of not more than forty-five (45) days each per calendar year. The sign shall have a maximum surface display area of thirty-two (32) square feet and may be illuminated.

Group Day Care Homes: One (1) non-illuminated sign, not more than two (2) square feet in area, may be attached to the building which shall contain only the name of the group day care home and/or the name of its owner.

Historical Marker Sign: One sign identifying for non-commercial purposes an historical event, place or structure which occurred or is located upon the premises on which the sign is placed shall be allowed. Such sign shall be no larger than six (6) square feet and may be illuminated.

B. R1, R2, R3, R4, R5, and R6 Districts:
The following types of signs are permitted:

Sale or Lease of Property: One non-illuminated sign advertising the sale or lease of the lot or building on which the sign is located. A sign on a lot of one (1) acre or less in size may have a maximum surface display area of six (6) square feet. A sign on a lot of more than one (1) acre in size may be increased beyond the six (6) square feet limit by two (2) square feet for every acre or fraction thereof by which the lot exceeds one (1) acre in size, to a maximum surface display area of thirty-two (32) square feet.

Home Occupation: One non-illuminated sign announcing a home occupation not to exceed two (2) square feet in surface display area and which shall be attached to the building and contain only the name and occupation of the resident of the premises.

Newly Established Subdivision or Development Sign: One non-illuminated sign advertising a newly established recorded subdivision or development and the sale or rental of lots or premises thereon, not to exceed thirty-two (32) square feet. Use of the sign shall not exceed a period of two years.

Residential Development Entry Sign: One permanent sign, which may be illuminated, may be permitted at each entrance to a residential subdivision or development, including a mobile home park or an apartment building or complex. The surface display area of the sign may not exceed thirty-two (32) square feet and may include only the name of the development and the name and telephone number of the developer.

Institutional Uses: One freestanding sign for institutions for human care, churches, educational, or social institutions and governmental buildings, not to exceed thirty-two (32) square feet in surface display area, shall be permitted. Additionally, not more than three wall signs with a combined surface display area not exceeding thirty-two (32) square feet or 10 percent of the area of the wall to which they are attached, whichever is less, shall be permitted. The signs may be illuminated.

Permitted Nonresidential Use Conducted on the Premises; (other than home occupation and institutional uses) Such as, but Not Limited to a Farm; One non-illuminated sign identifying or advertising a permitted nonresidential use conducted on the premises, not to exceed thirty-two (32) square feet in surface display area.

Construction Sign: One non-illuminated sign announcing the names of architects, engineers, and/or contractors of a building under construction, alteration or repair, and announcing the character of the building enterprise or the purpose for which the building is intended may be allowed provided such sign shall not exceed thirty-two (32) square feet in surface display area. Such sign may be a flat wall sign, or freestanding with a maximum height of eight (8) feet above the grade of the abutting street or highway.

Sign Announcing Philanthropic or Governmental Event: One sign may be permitted for a period of not to exceed fifteen (15) days for purposes of advertising a charitable event. Such sign shall be no larger than thirty-two (32) square feet in surface display area. Such sign may be illuminated.

Election Campaign signs: conditions:

Are subject to the following:

1. Election campaign signs must be removed within ten (10) days after the election to which such sign pertained.

2. No election campaign sign shall be erected or placed so as to create a traffic hazard or cause an adverse effect to vehicular or pedestrian traffic traveling or entering upon adjacent public
highways and streets and cannot be placed in the City right-
of-way. Election campaign signs may be illuminated

Group Day Care Homes: One (1) non-illuminated sign, not more than two (2) square feet in area, may be attached to the building which shall contain only the name of the group day care home and/or the name of its owner.

Crop identification Signs: Signs identifying the brand name of the seed of farm crops grown in the farm field where the sign is posted shall be allowed. No such individual sign may exceed one (1) square foot. Such signs may not be illuminated.

Historical Marker Sign: One sign identifying for non-commercial purposes an historical event, place or structure which occurred or is located upon the premises on which the sign is placed shall be allowed. Such sign shall be no larger than twenty (20) square feet and may be illuminated.

C. C1 & C2 Districts: The following types of signs are permitted:

Office and Commercial Uses: Individual Businesses not Located in a Multi-Business Structure

(i) Individual businesses occupying a building gross floor area of 10,000 square feet or less shall be permitted one freestanding sign not exceeding one hundred (100) square feet in surface display area. In addition, not more than three wall signs with a combined surface display area not exceeding thirty-two (32) square feet (ninety six (96) square feet if no freestanding sign is erected) or 10 percent of the area of the wall to which they are attached, whichever is less, shall be permitted. Such signs may be illuminated.

(ii) Individual businesses occupying a building gross floor area of more than 10,000 square feet shall be permitted one freestanding sign, which may have a surface display area not greater than one hundred (100) square feet .in area. The surface display area may be increased beyond the one hundred (100) square foot limit by one (1) square foot for each 125 square feet of building gross floor area above 10,000 square feet, to a maximum surface display area of 185 square feet. . In addition, not more than three wall signs with a combined surface display area not exceeding thirty-two (32) square feet (ninety-six (96) square feet if no freestanding sign is erected) or 10 percent of the area of the wall to which they are attached, whichever is less, shall be permitted. Such signs may be illuminated.

No election campaign sign shall be erected or placed so as to create a traffic hazard or cause an adverse effect to vehicular or pedestrian traffic traveling or entering upon adjacent public highways and streets and cannot be placed in the City right-of-way. Election campaign signs may be illuminated.

Historical Marker Sign: One sign identifying for noncommercial purposes an historical event, place or structure which occurred or is located upon the premises on which the sign is placed shall be allowed. Such sign shall be no larger than twenty (20) square feet and may be illuminated.

Automobile Service Stations and Filling Stations; Due to their customary needs, automobile service stations and filling stations shall be permitted the following additional signs:

1. Custom lettering or other insignia on a gasoline pump indicating the brand of gasoline sold and other necessary information without size
limitation.

2. Gasoline Price Signs; In no instance shall the total sign area for gasoline price signs exceed 1.2 square feet. A single, non-illuminated, double faced sign not exceeding two square feet in area may be placed on each gasoline pump.

Restaurants and Other Establishments Selling Food/Beverages at Drive Through Window shall be allowed to have not more than two (2) illuminated menu board signs for use in connection with the drive-through window. The total combined area of the menu board sign(s) shall not exceed thirty-two (32) square feet.

D. I-1 & I-2 Districts:

Office, Commercial & Industrial Uses; Individual Businesses Not Located in a Multi Business Structure

i. Individual businesses occupying a building gross floor area of 10,000 square feet or less shall be permitted one freestanding sign not exceeding one hundred (100) square feet in surface display area. In addition, not more than three wall signs with a combined surface display area not exceeding eighty (80) square feet (one hundred (160) square feet if no freestanding sign is erected) or 10 percent of the area of the wall to which they are attached, whichever is less, shall be permitted. Such signs may be illuminated.

ii. Individual businesses occupying a building gross floor area of more than 10,000 square feet shall be permitted one freestanding sign, which may have a surface display area not greater than one hundred (100) square feet in area. The surface display area may be increased beyond the one hundred (100) square foot limit by one (1) square foot for each one hundred twenty-five (125) square feet of building gross floor area above 10,000 square feet to a maximum surface display area of one hundred eighty-five (185) square feet. In addition, not more than three wall signs with a combined surface display area not exceeding eighty (80) square feet (one hundred sixty (160) square feet if not freestanding sign is erected) or 10 percent of the area of the wall to which they are attached, whichever is less, shall be permitted. Such signs may be illuminated.

Individual Businesses Located in a Multi-business Structure.

i. Individual businesses located in a multi-business structure shall collectively be limited to one freestanding sign for the multi-business structure as a whole. If the multi-business structure has a building gross floor area of 10,000 square feet or less, the maximum surface display area of the sign shall be one hundred (100) square feet. The surface display area of a freestanding sign for a multi-business structure exceeding 10000 square feet. The surface display area of a freestanding sign for a multi-business structure exceeding 10,000 square feet in building gross floor area may be increased beyond the one hundred (100) square foot limit by one (1) square foot for each one hundred twenty-five (125) square feet of building gross floor area above 10,000 square feet to a maximum surface display area of one hundred eighty-five (185) square feet. The sign may be illuminated.

ii. No more than three wall signs per business housed within the multi-business structure shall be permitted. The combined surface display area of the wall signs may not exceed thirty-two (32) square feet or 10 percent of the area of
the wall to which they are attached, whichever is less. Such signs may be illuminated.

Business Development Entry Sign: One permanent sign, which may be illuminated, may be permitted at not more than two entrances to a plat or site condominium development limited to office and/or commercial businesses. The surface display area of the sign may not exceed one hundred (100) square feet and may include only the name of the development and the name and telephone number of the developer.

Window Signs: Window Signs shall not exceed more than forty percent of the surface area of the window in which they are displayed. Window signs shall not exceed ten percent of the building face of which the window is a part and may be illuminated.

Time and Temperature Signs: Time and temperature signs shall be permitted subject to the following regulations.

1. Time and temperature signs may take the form of wall, freestanding, or projecting signs subject to the conditions which apply to each of these classifications.

2. Time and temperature signs may be no larger than thirty-two (32) square feet per side in surface display area. The surface display area of a time and temperature sign shall not be debited against the total surface display area allowed for other signs on the site.

Private Traffic Control Signs: Private traffic control signs such as in, out, drive-in window, entrance, exit, etc., may be installed as long as the sign contains no advertising for the business or use: No such individual sign may exceed-six (6) square feet in surface display area. Such sighs may be illuminated.

Sale or Lease of Property: One non-illuminated sign advertising the sale or lease of the lot or building on which the sign is located. A sign on a lot of one (1) acre or less in size may have a maximum surface display area of six (6) square feet. A sign on a lot of more than (1) acre in size may be increased beyond the (6) square feet limit by two (2) square feet for every acre or fraction thereof by which the lot exceeds one (1) acre in size, to a maximum surface display area of thirty-two (32) square feet.

Institutional Uses: One freestanding sign for institutions for human care, churches, educational, or social institutions and governmental buildings, not to exceed thirty-two (32) square feet or 10 percent of the area of the wall to which they are attached, whichever is less, shall be permitted. The signs may be illuminated.

Construction Sign: One non-illuminated sign announcing the names of architects, engineers, and/or contractors of a building under construction, alteration or repair, and announcing the character of the building enterprise or the purpose for which the building is intended may be allowed provided such sign shall not exceed thirty-two (32) square feet in surface display area. Such sign may be a flat wall sign, or freestanding with a maximum height of eight (8) feet above the grade of the abutting street or highway.

Sign Announcing Philanthropic or Governmental Event: One sign may be permitted for a period of not to exceed fifteen days for purposes of advertising a charitable event. Such sign shall be no larger than thirty-two (32) square feet in surface display area. Such sign may be illuminated.

Election Campaign signs: Are subject to the following conditions:
1. Election campaign signs must be removed within ten (10) days after the election to which such sign pertained.

2. No election campaign sign shall be erected or placed so as to create a traffic hazard or cause an adverse effect to vehicular or pedestrian traffic traveling or entering upon adjacent public highways and streets and cannot be placed in the City right-of-way. Election campaign signs may be illuminated.

Historical Marker Sign: One sign identifying for non-commercial purposes an historical event, place or structure which occurred or is located upon the premises on which the sign is placed shall be allowed. Such sign shall be no larger than twenty (20) square feet and may be illuminated.

Automobile Service Stations and Filling Stations; Due to their customary needs, automobile service stations and filling stations shall be permitted the following additional signs:

i. Custom lettering or other insignia on a gasoline pump indicating the brand of gasoline sold and other necessary-information without size limitation.

ii. Gasoline Price Signs; In no instance shall the total sign area for gasoline price signs exceed 12 square feet. A single, non-illuminated, double faced sign not exceeding two square foot in area may be placed on each gasoline pump.

Restaurants and Other Establishments Selling Food/Beverages at Drive Through Window: One permanent sign, which may be illuminated, may be permitted at not more than two entrances to a plat or site condominium development limited to office, commercial and/or industrial business. The surface display area of the sign may not exceed one hundred (100) square feet and may include only the name of the development and the name and telephone number of the developer.

Grand Opening Signs: Grand opening signs may be permitted for a period not to exceed sixty (60) days for those businesses which are new to a particular location. The following additional regulations shall also apply to grand opening signs:

1. One grand opening sign may be permitted on the site of the business. The sign shall be no larger than thirty-two (32) square feet in surface display area and may be illuminated.

2. Windblown devices, such as pennants, spinners and streamers shall also be allowed on the site of business advertising a grand opening for the sixty (6) day time period designated for the grand opening sign.

Restaurants and Other Establishments Selling Food/Beverages at Drive Through Window; Shall be allowed to have not more than two (2) illuminated menu board signs for use in connection with the drive-through window. The total combined area of the menu board sign(s) shall not exceed sixty (60) square feet.
DOWNTOWN DEVELOPMENT AUTHORITY ORDINANCE

THE CITY OF GALESBURG ORDAINS:

Section 1. Title of Ordinance.

The Ordinance shall be known and may be cited as the "Downtown Development Authority Ordinance."

Section 2. Definitions.

The terms used in this Ordinance shall have the same meaning as given to them in Act 197 or as hereinafter in this section provided unless the context clearly indicates to the contrary. As used in this Ordinance:

"Act 197" means Act No. 197 of the Public Acts of the State of Michigan, 1975, as now in effect or hereafter amended.

"Authority" means the Downtown Development Authority of the City of Galesburg created by this Ordinance.

"Board" or "Board of Directors" means the Board of Directors of the Authority, the governing body of the Authority.

"City" means the City of Galesburg, Kalamazoo County, State of Michigan. "City Council" means the City Council of the City of Galesburg.

"Downtown District" means the downtown district designated by this Ordinance as now existing or hereafter amended.

Section 3. Determination of Necessity.

The City Commission hereby determines that it is necessary for the best interests of the City to halt property value deterioration and increase tax valuation where possible in the business district of the City, to eliminate the causes of that deterioration and to promote economic growth by establishing a Downtown Development Authority pursuant to Act 197.

Section 4. Creation of Authority.
There is hereby created pursuant to Act 197 a Downtown Authority for the City. The Authority shall be a public body corporate and shall be known and exercise its power under the title of "Downtown Development Authority of Galesburg." The Authority may adopt a seal, may sue and be sued in any court of this state and shall possess all of the powers necessary to carry out the purpose of its incorporation as provided by this Ordinance and Act 197. The enumeration of a power in this Ordinance or in Act 197 shall not be construed as a limitation upon the general powers of the Authority.

Section 5. Description of Downtown District.
The Downtown District in which the Authority shall exercise its powers as provided by Act 197 shall consist of the described territory in the City, subject to this Ordinance and Act 197, as set forth in Exhibit A, attached hereto and made a part thereof.

Section 6. Board of Directors.
The Authority shall be under the supervision and control of the Board of Directors consisting of the Mayor or the Mayor Pro-Tern and not less than eight (8) or more than twelve (12) members as determined by the City Council. The members shall be appointed by the chief executive officer of the City, subject to the approval by the City Council. Not less than a majority of the members shall be persons having an interest in property located in the Downtown District. Not less than one of the members shall be a resident of the Downtown District, if the Downtown District has 100 or more persons residing within it. Of the members first appointed, an equal number as near as is practical shall be appointed for one year, two years, three years, and four years. Members shall hold office until the members' successor is appointed. Thereafter, each member shall serve for a term of four years. An appointment to fill a vacancy shall be made by the Mayor of the City for the unexpired term only. Members of the Board shall serve without compensation, but shall be reimbursed for actual and necessary expenses.

Section 7. Powers of the Authority.
The Authority shall have all powers enumerated by law in Act 197.

Section 8. Fiscal Year/Adoption of Budget.

(A) The fiscal year of the Authority shall begin on July 1st of each year and end on June 30th of the next year, or such other fiscal year as may be adopted by the City.

(B) The Board shall annually prepare a budget annually and shall submit it to the City Council on the same date that the proposed budget for the City is required by law to be submitted to the City Council. The Board shall not finally adopt a budget for any fiscal year until the budget has been approved by the City Council. The Board may, however, temporarily adopt a budget in connection with the operation of any improvements which have been financed by revenue bonds where required to do so by the Ordinance authorizing the revenue bonds.

(C) The Authority shall submit financial reports to the City Council at the same time and on the same basis as departments of the City are required to submit reports.

The Authority shall be audited annually by the same independent auditors auditing the City and copies of the audit report shall be filed with the City Council.

Section 9. Section Headings: Severability/Repealer.

Section headings are provided for convenience only and are not intended to be part of this Ordinance. If any portion of this Ordinance shall be held to be unlawful, the remaining portions shall remain in full force and effect. All Ordinances and parts of Ordinances in conflict herewith are hereby repealed.

This ordinance shall be published, in full, no later than fifteen days after its adoption, in the Kalamazoo Gazette, a newspaper of general circulation in the City. The City Clerk shall file a certified copy of the Ordinance with the Michigan Secretary of State promptly after its adoption.

Section 11. Effective Date.

This Ordinance shall be effective January 6, 2007

Section 12. Adoption.

This Ordinance is hereby declared to have been adopted by the City Council of the City of Galesburg, County of Kalamazoo, State of Michigan, at a special meeting, called and held on the 18th day of December, 2006.

* * * * * * * * *

CERTIFICATE

I, Diana Skidmore, City Clerk for the City of Galesburg, do hereby certify that the foregoing Galesburg Ordinance No.247 was adopted by the City Council at a regular meeting held on December 18, 2006, and that the following is a record of the vote of the members of said City Council on said Ordinance.

AYES: Allen, Nicolow, Jackson, Yingling and Weston
NAYS: Boomershine
ABSTAIN: None
ABSENT: Barnett

Diana Skidmore, City Clerk
EXHIBIT A
DESCRIPTION OF PROPERTY FOR CITY OF GALESBURG
Proposed DOA Boundary Description

Beginning at the 1/4 post common to Sections 18 & 19, T. 2 S., R. 9 W., City of Galesburg, Kalamazoo County, Michigan; thence South along the North and South 1/4 line of said Section 19 to the Southerly right-of-way line of Michigan Avenue; thence West along said Southerly right-of-way to the East line of the West-half of lot10, Assessor's Plat of the City of Galesburg, as recorded Liber 13 of Plats on Pages 18 thru 22, Kalamazoo County Records; thence South along said East line to the Kalamazoo River, thence Westerly along the Kalamazoo River to the Westerly line of Lot 49of said Assessor's Plat; thence Northwesterly along said Westerly line to the Southerly line of Lot 50 of said Plat; thence Northeasterly along the Southerly line of Lot 50 to the Easterly line of Lot 50; thence Northwesterly along the Easterly line of Lot 50 to the Southerly right-of-way line of Battle Creek Street; thence Southwesterly along said Southerly right-of-way to the West line of Section 24, T. 2 S., R; 10 W.; thence North along said West Section line to the Southwesterly extension of the Northerly right-of-way of Battle Creek Street; thence Northwesterly along said Northerly right-of-way to the Westerly line of Lot 78of said Assessor's Plat; thence Northwesterly along said Westerly line to the Southwest corner of Lot 77 of said Plat; thence Northerly along the West line of Lot 77 & 76 of said Assessor's Plat to the Southerly right-of-way line of Michigan Avenue; thence West along the Southerly right-of-way of Michigan Avenue to the West line of Section 24; thence North along the West line of Sections 24 & 13 to the Northerly right-of-way line of Michigan Avenue; thence East along said Northerly right-of-way to the Westerly right-of-way of Grant Street; thence North along the Westerly right-of-way of Grant Street to the Northerly right-of-way of Beckwith Drive; thence Easterly along said Northerly right-of-way to the Easterly right-of-way of Burgess Drive; thence South along the Easterly right-of-way of Burgess Drive to the Northerly right-of-way of M-96 Highway; thence Northeasterly along said Northerly right-of-way to the Easterly City Limits of Galesburg; thence South along the Easterly limits to the center line of M-96 Highway; thence Southwesterly along said center line to the North and South 1/4 line of Section 18, T. 2 S., R 9 W.; thence South along said 1/4 line to the Southerly right-of-way line of M-96 highway; thence Southwesterly along said-Southerly right of way to the west line of Section 18, T 2 S, Range 9 W thence South along West line to the Southerly line of Lot 293 of said Assessor's Plat; thence Northeasterly along said Southerly line, 191.67 feet; thence Northeasterly, 184.84 feet to the Northeasterly corner of Lot 252 of said Assessor's Plat; thence Southerly along the Easterly line of Lots 252, 256 & 257 to the Northerly line of Lot 265 of said Plat; thence Westerly along said Northerly line to the Westerly line of Lot 265; thence South along the Westerly line of Lot 265 to the Northerly right-of-way line of Michigan Avenue; thence Easterly along said Northerly right-of-way to the North and South 1/4 line of Section 18, T. 2 S., R 9 W.; thence South thereon to the place of beginning.
CITY OF GALESBURG
ORDINANCE NO. 261

AN ORDINANCE TO ADOPT DEVELOPMENT AND A TAX INCREMENT FINANCING PLANS, PERTAINING TO THE DOWNTOWN DEVELOPMENT AUTHORITY DISTRICT, PURSUANT TO THE PROVISIONS OF ACT 197, PUBLIC ACTS OF MICHIGAN OF 1975, AS AMENDED, AND TO PROVIDE FOR MATTERS RELATED THERETO

THE CITY OF GALESBURG ORDAINS:

ARTICLE I

Ordinance No. 261 is hereby approved and adopted by the Galesburg City Council and shall read as follows:

Section I: Definitions
The terms used in this Ordinance shall have the following meanings unless the context clearly requires otherwise:

"Act 197" means the Downtown Development Authority Act, Act No. 197 of the Public Acts of Michigan of 1975, as may be amended.

"Captured Assessed Value" means the amount in any one year by which the current assessed value, as finally equalized of all taxable property in the Development Area, exceeds the initial Assessed Value, as more fully described in the Development and Tax Increment Financing Plans.

"Development Area" shall mean the area within the boundaries of the City of Galesburg Downtown Development Authority District, as described in the Downtown Development Authority Ordinance, Ordinance No. 247, and as illustrated in the Downtown Development Authority Development and Tax Increment Financing Plans.


"Initial Assessed Value" means the most recently assessed value, as finally equalized by the State Board of Equalization, of all taxable property within the boundaries of the Downtown Development Authority District at the Time of adoption of this Ordinance No. 261, as more fully described in the Downtown Development Authority and Tax Increment Financing Plans.

"Tax Increment" shall be that portion of the tax levy of all taxing jurisdictions paid each year on real property in the Downtown Development Authority District on the captured assessed value, as more fully described in the Downtown Development Authority Development and Tax Increment Financing Plans.

"Downtown Development Authority" means the City of Galesburg's Downtown Development Authority as established by Ordinance No. 247.

"Tax Increment Financing Plan" means the Tax Increment Financing Plan for the City of Galesburg's Downtown Development Authority District, as transmitted to the City Council by the
Downtown Development Authority for public hearing, and as confirmed by this Ordinance No. 261, copies of which are on file in the office of the City Clerk.

"Taxing Jurisdiction" shall mean each unit of government levying an ad valorem property tax on property in the Downtown Development Authority District.

All other undefined terms, unless the context of this Ordinance specifically requires otherwise, shall have the meanings attributed to them by current usage.

Section II: Approval and Adoption of the Downtown Development Authority Development and Tax Increment Financing Plans

Pursuant to Section 19 (1) Act 197, the City Council of the City of Galesburg, Kalamazoo County, hereby finds and determines in accordance with Section 19 (1) of Act 197, Public Acts of 1985, as follows:

(a) That the Development and Tax Increment Financing Plans constitute and embody a public purpose of the City; and

(b) That the Development and Tax Increment Financing Plans meet the requirements set forth in Section 14 (2) and 17 (2) of Act 197; and

(c) That the proposed method of financing the development activities described in the Development and Tax Increment Financing Plans is feasible; and

(d) That the development activities described in the Development and Tax Increment Financing Plans are reasonable and necessary to carry out the purposes of Act 197 of 1975; and

(e) That public services, such as fire and police protection and utilities are, or will be, adequate to service the Downtown Development Authority District; and

(f) That the City of Galesburg held a public hearing on December 5, 2011 to declare its intent to create Development and Tax Increment Financing Plans after proper public notice to affected property owners, citizens and affected taxing jurisdictions as required by Section 3, Act 197 of 1975.

In accordance with the foregoing considerations, the Downtown Development Authority Development and Tax Increment Financing Plans are hereby approved and adopted for all purposes of Act 197 of 1975, consistent with said plans, with the following additions, modifications and/or conditions:

"NONE ADOPTED"

Copies of the Development and Tax Increment Financing Plans and all respective attachments, exhibits and amendments thereto, shall be maintained on file in the City Clerk's office and shall be cross-indexed to this Ordinance No. 261.

Section III: Boundaries of Development Area

The boundaries of the Development Area are hereby adopted and confirmed as set forth in Exhibit "A" attached hereto and made a part thereof.

Section IV: Preparation of Base Year Assessment Roll
a. Within 90 days of the effective date of this Ordinance No. 261, the initial base year assessment roll shall be prepared. The base year assessment roll shall list each taxing jurisdiction in which the Downtown Development Authority District is located, the initial assessed on the effective date of this Ordinance No. 261, and the amount of tax revenue derived by each taxing Jurisdiction from ad valorem taxes on the property in the Development District.

b. The copies of the base year assessment roll shall be transmitted to the City Treasurer, the County Treasurer, the Downtown Development Authority, and each taxing jurisdiction, together with a notice that the assessment roll has been prepared in accordance with this Ordinance and the Development and Tax Increment Financing Plans approved by this Ordinance No.261.

**Section V: Preparation of Annual Assessment Roll**

Each year, within 15 days following the final equalization of property in the Development District, an updated annual assessment roll shall be prepared. The annual assessment roll shall show the information required in the base year assessment roll and, in addition, the captured assessed value for that year. Copies of the annual assessment roll shall be transmitted to the same person as the base year assessment roll, together with a notice that it has been prepared in accordance with this Ordinance No. 261 and the Development and Tax Increment Financing Plans.

**Section VI: Account Status Report**

Annually, the Authority shall submit to the governing body of the municipality and the State Tax Council a report on the status of the Tax Increment Financing account. The report shall include: the amount and source of revenue in the account; the amount and purpose of expenditures from the account; the amount of principal and interest on any outstanding bonded indebtedness; the initial assessed value of the project area; the captured assessed value retained by the Authority; the tax increments received; and any additional information the governing body or the State Tax Council considers necessary. The report shall be published in a newspaper of general circulation in the municipality.

**Section VII: Implementation**

All tax increments shall be transmitted by the City Treasurer into an account of the Downtown Development Authority at the earliest practicable date. All tax increments, so received by the Downtown Development Authority, shall be disbursed in accordance with the provisions of the Development and Tax Increment Financing Plans and the requisitions of the Downtown Development Authority. Surplus funds shall revert proportionately to the respective taxing bodies. For the purpose of segregation and transfer of such funds, the City Treasurer shall maintain a separate fund which shall be kept in a depository bank account or accounts in a bank or banks approved by the City Council, to be designated Downtown Development Authority Project Fund. All amounts payable to the Downtown Development Authority shall, subject to the foregoing, be deposited directly in the Downtown Authority Project Fund.

**Section VIII: Duration of Tax Increment Financing Plan**

The Tax Increment Financing Plan will continue in effect until all purposes of the Development and Tax Increment Financing Plans have been fulfilled.

**ARTICLE II**
**Saving Clause**
If any term, section, paragraph, clause or provision of this Ordinance shall be invalid for any reason, the same shall not affect the validity of any other provision, term, section, paragraph, or clause of this Ordinance which shall remain in force and effect.

**Repealer Clause**

All Ordinances or parts thereof in conflict are hereby repealed and deemed null and void. Adopted: March 5, 2012
Effective: May 7, 2012

Karen Bresson, City Clerk

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**CERTIFICATE**

I, Karen Bresson, Clerk for the City of Galesburg, do hereby certify that the foregoing City of Galesburg Ordinance No. 261 was adopted by the City Council at a regular meeting held on May 7, 2012, and that the following is a record of the vote:

AYES: Kissinger, VanNess, Nicolow, Diller, Yingling and Mayor Garrett
NAYS: Henson
ABSTAIN: 0
ABSENT: 0

Karen Bresson, City Clerk
CODE COMPARATIVE TABLE

This table gives the location within this Code of those sections of the 2005 Code, as updated through June 30, 2005, which are included herein. Sections of the 2005 Code, as supplemented, not listed herein have been omitted as repealed, superseded, obsolete or not of a general and permanent nature. For the location of ordinances adopted subsequent thereto, see the table immediately following this table.

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