

Regular City Council Meeting

March 26, 2012

Agenda

7:30 p.m. **Call to Order**
Pledge of Allegiance
Roll Call
Approval of Agenda
Minutes – March 12, 2012
Public Comment:

I. Old Business

1. Second Reading – Amendment to Ch. 38 Emergency Services (Cost Recovery Ordinance)

II. New Business

1. Set Special Meeting
2. Declaration of Restrictive Covenant – 138 Lafayette Street
3. Discussion - Permitting of Chickens
4. Closed Session – Oakland 40 Litigation

III. Manager's Report

IV. Council Comments

V. Adjournment

**CITY OF SOUTH LYON
REGULAR CITY COUNCIL MEETING
March 12, 2012**

Mayor Wallace called the meeting to order at 7:30 p.m.
Mayor Wallace led those present in the Pledge of Allegiance to the Flag

PRESENT: Mayor Wallace
Council Members: Dixon, Kivell, Kopkowski, Kramer, Rzyzi, and Wedell
City Manager Murphy
City Attorney Lee
City Clerk/Treasurer Zemke
Department Heads: Collins, Kennedy, and Martin

APPROVAL OF MINUTES:

Councilman Kivell stated that on page 2 of the minutes when he asked the question about the channel line-up, he was referring to the PEG channels. Also, on page 6, Councilman Rzyzi is not listed in the roll call vote.

CM 3-1-12 – APPROVAL OF MINUTES- FEBRUARY 27, 2012

Motion by Kivell, supported by Kopkowski

To approve the minutes of the February 27, 2012 Regular Council meeting as amended

VOTE: MOTION CARRIED UNANIMOUSLY

APPROVAL OF MONTHLY BILLS:

Discussion was held on various bills.

CM 3-2-12 – APPROVAL OF MONTHLY BILLS

Motion by Wedell, supported by Dixon

To approve the monthly bills as presented

VOTE: MOTION CARRIED UNANIMOUSLY

APPROVAL OF AGENDA:

CM 3-3-12 APPROVAL OF AGENDA

Motion by Wedell, supported by Kramer

To approve the agenda as presented

VOTE: MOTION CARRIED UNANIMOUSLY

PUBLIC COMMENT:

Chief Kennedy stated that it is his honor to be before Council to recognize two members of the South Lyon Fire Department and two members of the Huron Valley Ambulance team. He described an incident which occurred on Saturday, February 18, 2012 involving a response to a male patient not breathing and in cardiac arrest. The South Lyon Fire Department and HVA were able to restore a heart rhythm and transported him

to St. Joseph Mercy Hospital, Ann Arbor. He along with Mr. Lee Aho presented Paramedic Greg Hartig, Paramedic Andy Chlebek, Firefighter Chad Ulrich and Firefighter Chris Demeniuk with a letter of commendation.

Ron Evangelista Co-owner and franchisee of the Aubrees Restaurant and Bill French, Founder and CEO Of Aubrees were present.

Mr. Evangelista stated that there are currently 5 locations of Aubrees. They are seeking one of the City's two remaining liquor licenses to open a restaurant in the Brookdale Shopping Center. They are a full service family-style restaurant with 80% of their menu being other than pizza. In all of the communities they are in they are involved with the community. He discussed the employment opportunities within the local community. He discussed their programs to support local sports teams, charities, etc. They strive to use Michigan based companies as well as Michigan breweries. He discussed other community out-reach programs.

Mr. French thanked Council for the opportunity to introduce Aubrees. He stated that it is a unique company including one of the only companies that requires from their franchisees that they contribute 1.5% back to the local community. Their commitment to the community is significant. Every community they have entered, they have added value to the community. This is not a pizzeria, it is a family oriented restaurant. He discussed the menu. He discussed the communities that have awarded them liquor licenses.

Council Member Kopkowski asked where they propose to locate. Mr. Evangelista stated that they have looked at a couple spaces in Brookdale. Council Member Kopkowski asked if there were going to be any structural changes to the building. Mr. French presented pictures of one of their other franchises. Mr. Evangelista stated that there will have to be some changes made.

Mayor Wallace stated that he did do some research and they do have some good reviews.

Mr. French stated that they have been rated by the Governor as one of the top 10 businesses in the State.

Mayor Wallace asked if there is a time frame. Mr. Evangelista stated that they would hope to be open this summer.

Mr. French stated that they did look at the downtown and that was their first choice. However, they have certain restrictions with parking, etc. and felt that it was not feasible. He further stated that they actually generate business for other local businesses.

OLD BUSINESS:

1. Second Reading – Residential in B3 District

City Manager Murphy stated that there have been no changes since the last meeting and would recommend approval.

CM 3-4-12 SECOND READING – RESIDENTIAL IN B3 ZONING DISTRICT

Motion by Kivell, supported by Kopkowski

To approve 2nd reading of the amendments to City of South Lyon Ordinance, Chapter 102 Article VI, Division 10, Sec. 102-322 "Principal uses permitted" as presented (see attached amendment as part of these minutes)

VOTE:

MOTION CARRIED UNANIMOUSLY

NEW BUSINESS:

1. Reappointments

Mayor Wallace stated that we have 11 re-appointments. All of the individuals have agreed to continue to serve and several have indicated that it is an honor to serve.

CM 3-5-12 – RE-APPOINTMENTS

Motion by Wallace, supported by Kivell

To affirm the re-appoints made by Mayor Wallace of the following:

Scott Lanam	Planning Commission	Term Expires: March 2015
Jim Culbertson	Planning Commission	Term Expires: March 2015
Wayne Chubb	Planning Commission	Term Expires: March 2015
Joe Ryzyi	Zoning Board of Appeals	Term Expires: March 2015
Frank Fogarty	Zoning Board of Appeals	Term Expires: March 2015
Jim Herman	Zoning Board of Appeals	Term Expires: March 2015
Erica Wilson	Parks & Recreation	Term Expires: March 2015
Jeff Thompson	Parks & Recreation	Term Expires: March 2015
Roger Heiple	Historical Commission	Term Expires: March 2015
Larry Ledbetter	Historical Commission	Term Expires: March 2015
Norm Somers	Historical Commission	Term Expires: March 2015

VOTE:

MOTION CARRIED UNANIMOUSLY

2. Tri – Party Money

City Manager Murphy stated that the Tri-Party monies are funds that come from the Road Commission for Oakland County. This year's share is \$25,461. He stated that he feels that it is best to put it aside for now until we figure out what project we want to do along Pontiac Trail. Currently we are using Tri-Party funds on the Eight Mile Road project.

Councilman Wedell stated that he would recommend approving the use of the Tri-Party funds but holding them in reserve at this time.

CM 3-6-12 – TRI-PARTY FUNDS

Motion by Wedell, supported by Dixon

To approve using the Tri-Party funds for future Pontiac Trail improvements

VOTE:

MOTION CARRIED UNANIMOUSLY

3. First Reading – Amendment to Ch. 38 Emergency Services (Cost Recovery Ordinance)

Chief Kennedy stated that he is requesting an amendment to Article II of Chapter 38. This came to light when we had a tractor trailer that had a crack in its engine and spilled diesel and motor oil downtown. We were able to invoice them and recover \$3,100 from their insurance, but we did not have a formal cost

recovery ordinance in place. We are one of the few communities that do not have one. The standard automobile accident would not meet the threshold nor was that our intent. The language comes from Oakland County legal division. We have also researched what other communities are doing. It is designed for more of a catastrophic incident. He discussed the response time for DTE and Consumers Energy, which we would be able to recover for anything over a two hour response.

Council member Kopkowski asked if we would bill their insurance company. Chief Kennedy stated that we would bill them directly. Further discussion was held on how the invoicing would take place. Discussion was held on the ability of the property owner/vehicle owner to turn the invoice over to their insurance company.

Councilman Wedell stated that he is in favor of this. He asked if this would cover the railroad as well. Chief Kennedy discussed the difficulties in dealing with the railroad because they are under Federal regulations.

Councilman Kramer asked if we are charging residents and non-residents the same. Chief Kennedy stated that this excludes one and two-family dwellings because they are already supporting the Fire Department with their taxes. We do not want to go after taxpayers for standard City services. Furthermore, this is cost neutral. We are simply trying to recover costs incurred under extraordinary circumstances. Further discussion was held on the inability to charge non-residents differently than residents.

Councilman Kramer asked if under mutual aid would we be in the position to bill for our services. Chief Kennedy stated that there have been cases where that has happened. He gave an example in Howell where turn out gear was contaminated, etc. and Howell asked that all of the communities that responded to submit costs through them. We would not be invoicing the municipality.

Attorney Lee stated that the ordinance provides that any invoicing would require that we make a determination of responsibility. Council would then approve the invoicing.

Councilman Kramer asked why we have to determine responsibility. Attorney Lee stated that it provides Council the ability to determine that it is an extraordinary event. Councilman Kramer asked why we could not make it more generalized. Attorney Lee stated that we have to draw the line between those normal costs paid for by taxes and extraordinary events. Councilman Kramer stated that it usually comes down to what services were provided over and above what is normally done. He does not want to be in a position where we would end up in litigation as to whether or not we are right that they are the responsible party. Further discussion was held on determining a responsible individual.

Councilman Kivell stated that it is a good idea and cannot see that it is going to happen very often, but we do need to be prepared.

CM 3-7-12 – FIRST READING – AMENDMENT TO ARTICLE III OF CHAPTER 38

Motion by Kivell, supported by Wedell

To approve the first reading to amend the Code of the City of South Lyon by amending Article III of Chapter 38 (see attached amendment as part of these minutes)

Councilman Kramer stated that he feels that this needs to be tweaked some more. He would like the responsible party language made more general. If the services are incurred, then there will be no question as to responsibility.

VOTE:

MOTION CARRIED (1 opposed)

Councilman Kivell stated that this in no way would affect whether there is a response or not. Chief Kennedy stated that they are absolutely going to respond this would not affect any service.

4. Attorney RFP

City Manager Murphy stated that as you know, Parvin Lee is going to be retiring. He has put together an RFP to look for a new firm. He would ask that Council approve the RFP and also appoint a Council Member to serve on the review committee along with himself, Chief Collins and Julie Zemke.

Councilman Wedell stated that he is familiar with the process and would be willing to serve on the committee.

CM 3-8-12 – ATTORNEY RFP

Motion by Kivell, supported by Dixon

To approve the RFP process and appoint Council Member Wedell to sit on the review committee

Councilman Kramer stated that even though he is an attorney, he may know some of the individuals. He does not feel that it would be appropriate for him to sit on the committee.

VOTE:

MOTION CARRIED UNANIMOUSLY

MANAGER'S REPORT: None

COUNCIL COMMENTS:

Councilman Rzyzi thanked the representatives from Aubrees for coming out today and making their presentation.

Councilman Kivell stated that he had a resident call inquiring about the ability to raise chickens. He spoke with the City Attorney who suggested that if there is interest in allowing the activity, that it be done under a special use permit so that we could regulate what our expectations and limitations are. He would like this to be given some consideration.

Mayor Wallace stated that the Aubrees presentation was excellent and the community is going to be very excited.

ADJOURNMENT:

CM 3-9-12 ADJOURNMENT

Motion by Kopkowski, supported Kramer

To adjourn meeting at p.m.

VOTE:

MOTION CARRIED UNANIMOUSLY

Respectfully submitted,

Tedd M. Wallace
Mayor

Julie C. Zemke
City Clerk/Treasurer

AGENDA NOTE

Old Business: Item #1

MEETING DATE: March 12, 2012

PERSON PLACING ITEM ON AGENDA: Fire Chief Mike Kennedy

AGENDA TOPIC: Second Reading - An ordinance to amend the Code of the City of South Lyon by amending Article III of Chapter 38. (Cost Recovery Ordinance)

EXPLANATION OF TOPIC: The City of South Lyon does not have an emergency cost recovery ordinance for fire or hazardous materials incidents. The absence of such an ordinance may inhibit or prevent the City from being able to recover expenses from situation where (1) there is a direct cost to the City as a result of a mutual aid agreement; (2) there is a hazardous substances incident; (3) there is a violation of law that has caused the City to incur an unusual expense; (4) there are downed or damaged power lines or other inherently dangerous conditions that involved fuel or energy-providing utilities (gas, electric, lighting) beginning two hours after notification; and (5) where there is a large scale Incident, defined in the ordinance to mean a significant event (like an explosion) that causes disruption for a substantial period of time (2 hours). This ordinance is meant to be revenue neutral and applies to all City departments.

MATERIALS ATTACHED AS SUPPORTING DOCUMENTS: Proposed ordinance revision (same as first reading) and proposed changes from Council Member Kramer.

POSSIBLE COURSES OF ACTION: Approve/do not approve the second reading to amend the Code of the City of South Lyon by amending Article III of Chapter 38.

RECOMMENDATION: Approve the second reading to amend the Code of the City of South Lyon by amending Article III of Chapter 38.

SUGGESTED MOTION: Motion by _____, supported by _____ to approve the second reading to amend the Code of the City of South Lyon by amending Article III of Chapter 38.

ORDINANCE AMENDMENTS TO CHAPTER 38 EMERGENCY SERVICES

The City of South Lyon Ordains:

An ordinance to amend the Code of the City of South Lyon by amending Article III of Chapter 38.

ARTICLE III. EMERGENCY RESPONSE COST RECOVERY

Sec. 38-51 Purpose and intent.

Costs for emergency services are a normal and budgeted public expenditure by the City in order to serve its residents, taxpayers, and the public at large. However, the City Council finds that certain kinds of emergency responses primarily benefit identifiable persons or property owners, or are necessitated by certain kinds of unlawful or improper conduct, such as driving under the influence, a hazardous substance incident, or a large-scale incident as defined in Sec. 38-52. The City Council further finds that such costs should be borne by the party responsible for those costs, as provided for in this Article, in order to avoid imposition of an economic hardship on the City.

Sec. 38-52 Definitions.

"Costs of the emergency response" shall mean the actual costs incurred by the City, and by any other governmental or intergovernmental entity providing services at the request or direction of the City's Fire or Police Department, as the result of an emergency response to any incident involving driving under the influence, hazardous substance incident, large-scale incident, or other such incident as defined in this Article. Such costs shall include, without limitation: (a) all labor costs for City personnel (including wages, overtime, salaries, fringe benefits, and reimbursable expenses); (b) all costs for materials, supplies, and equipment utilized or damaged in connection with an emergency incident and emergency response; (c) all costs for the repair or replacement of publicly-owned property, buildings, facilities, and infrastructure damaged or destroyed in connection with an emergency response; (d) all costs for cleaning up, boarding-up, inspecting, testing, abating, mitigating, restoring at the site of an emergency response; (e) all costs for labor and services for which the City had to contract in connection with or as a direct or indirect result of an emergency incident and emergency response; (f) all costs for investigation, enforcement, and prosecution in connection with the incident or response; and (g) any other costs incurred by the City, and by any other governmental or intergovernmental entity providing services at the request or direction of the City's Fire or Police Department, in connection with an emergency incident and emergency response.

"Emergency response" shall mean the dispatch, provision, response, and/or utilization of police, fire, emergency medical, rescue services, and/or other emergency services by the City, or by any other governmental or intergovernmental entity providing any such services at the request or direction of the City's Fire or Police Departments, in response to a call for assistance from any person, property owner, government agency, emergency service provider, or other entity.

“Hazardous substances incident” shall mean an incident involving any chemical, substance, compound, mixture, or other material defined as, designated as, listed as, or having the same characteristics as any substance, compound, mixture or material listed as hazardous under the Fire Code adopted under Chapter 46 of this Ordinance Code, any other code adopted or enforced by the City, or any federal or state law or regulation.

“Large-scale incident” shall mean an incident, such as a tanker truck fire or explosion, a railroad derailment, gas well explosion, or the like that results in the disruption of day-to-day activities in the City and the use of City personnel or contracted resources for a prolonged period of time of more than 2 hours in duration.

“Driving under the influence” shall mean any individual, or individuals who are operating any motor vehicle of any kind while under the influence of intoxication liquor or a controlled substance or a combination of intoxicating liquor and a controlled substance in violation of the Michigan Vehicle Code or the Uniform Traffic Code as adopted by the City of South Lyon.

“Responsible person” shall mean any individual, firm, corporation, association, partnership, commercial entity, consortium, joint venture, or other entity that creates the need for a response, or who owns, operates, maintains, occupies, or controls any building, premises, or property in a manner that causes a response incident to arise. The phrase “creates the need for a response” is intended to include only those persons whose intentional or negligent actions caused the need for the emergency response.

Sec. 38-53. - Liability for costs.

The costs of an emergency response shall be assessed to and paid by the person(s) responsible for causing the response in the following circumstances:

1. Where the costs result from a charge, invoice, or other expense to the City for an emergency response to non-residential property by any other governmental or intergovernmental entity at the request or direction of the City pursuant to a mutual aid agreement.
2. Where the costs result from a hazardous substances incident, as defined in Sec. 38-52.
3. Where the costs result from a violation of law for which the responsible party has been convicted or found responsible in a court of law, including, but not limited to driving under the influence, to the extent the City has incurred a specific charge or invoice for a response to specific activity that would not otherwise have been incurred (e.g., for demolition or clean-up).
4. Where the costs result from (a) monitoring downed or damaged power lines or other inherently dangerous conditions by City personnel in order to protect the public health and safety, or (b) damages to public property, if such response involves a gas, electric, lighting, or other fuel- or energy-providing utility whose activities or facilities necessitated the response. Such costs shall be calculated beginning two (2) hours after notification to the public utility whose facilities are involved.

5. Where the costs result for a large scale incident, as defined in Sec. 38-52.
6. In the event of an emergency incident that involves a hazardous substances incident, to the extent the Michigan Natural Resources and Environmental Protection Act (being MCL 324.20101, et seq.) or any other law preempts the cost recovery provisions of this Article, the liability for and recovery of costs of the emergency response shall be governed by the Michigan Natural Resources and Environmental Protection Act or such other law, and the City may pursue collection of such costs of the emergency response in a civil action, pursuant to said laws.
7. Upon the third (3) response, or any response thereafter, to any incident involving a false alarm, faulty equipment, or improperly installed or maintained equipment or materials including, but not limited to, carbon monoxide detectors, fire or flow alarms, chimney fires, and smoke alarms.
8. The fire department shall be entitled to recover all costs and damages incurred in conjunction with any fire the extinguishment of which was hampered by the obstruction, removal, tampering or damaging of any fire hydrant or fire appliance required to be installed or maintained under this code, and shall be the joint and several responsibility of the person(s) responsible.

Sec. 38-54 – Duty to Remove.

It shall be the duty of any person, firm, company, corporation or other entity, who causes or has ownership or control of any property on which a spill, leakage or other dissemination of hazardous materials occurs to remove immediately such hazardous materials and undertake and complete a total cleanup of the area in such a manner as to insure that all leakage, spillage or other dissemination of hazardous material is fully removed and the area is fully restored to its condition prior to the placement, leakage, spillage or other dissemination of such hazardous materials. In the event any person, firm, company, corporation, or other entity fails to remove such hazardous material, the city shall have the right to enter into and/or upon the subject property and remove and conduct a cleanup of all such hazardous materials either by city employees, including the city fire department, or by contractors and agents of the city. All costs of such removal and cleanup shall be the responsibility of the person owning, operating and/or occupying or possessing the subject property, jointly and severally. In the event that such costs are not paid within 30 days of the city's demand for payment, the city may take whatever collection steps it deems appropriate including, but not limited to the placement of all such charges on the tax roll to be added to the taxes for such property for the next tax year as for real or personal property taxes and/or the placement of a lien on personal or real property owned by the responsible parties.

Sec. 38-55. - Schedule of costs.

The city council for the City of South Lyon shall by resolution adopt a schedule of the costs including therein the expense of an emergency response. This schedule shall be available to the public from either the city clerk or the police department.

- (a) Equipment costs for the fire department shall be based off of the current edition of the Federal Emergency Management Agency's "Schedule of Equipment Rates".
- (b) The DPW and Police Department shall base equipment costs off of their pre-determined rates.

The cost of an emergency response shall be a charge against the responsible party. Such charge constitutes a debt of that person or persons. The City Treasurer shall submit an invoice for costs pursuant to Sec. 38-56.

Sec. 38-56. - Bill for services.

The City Manager or the designee thereof, within 60 days of an emergency response, shall prepare a list of itemized costs and submit the same to the city treasurer. The city treasurer shall within ten days of receiving itemized costs incurred for an emergency response, submit a bill for the same by first class mail or personal service to a person liable for said expenses as enumerated under this article. Said bill shall require full payment within 30 days from the date of service.

Sec. 38-57. – Appeal

Any person receiving a bill may appeal all or any portion of the amount shown on such statement by filing a written request with the city clerk within 30 days of receipt of an invoice from the City. An ad hoc committee consisting of the city manager or designee, the city treasurer, and the immediate past mayor, or if he or she is unable to serve, a past council member appointed by the current mayor shall be created by resolution of Council. The Committee may waive or reduce the amount of any invoice.

Sec. 38-58. - Failure to pay costs of emergency response.

Any failure by the responsible person to pay the itemized costs within 30 days of service, or denial of any appeal, shall be considered a default. In case of default, the City of South Lyon shall pursue any remedy available at law or equity to recover the unpaid expenses of an emergency response, plus the City's attorney fees, court costs, litigation expenses.

Sec. 38-59. - Civil nature of liability.

This chapter shall be construed to be a responsibility and liability of a civil nature on the part of the responsible person. This shall not be construed to conflict, contravene, enlarge, or reduce any criminal liability or responsibility, including fines and/or costs which may be imposed by a judge under any valid local, state, or federal ordinance, statute, or law.

Sec. 38-60. – Severability

If one or more sections, provisions, phrases or words of this Ordinance are declared to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance, which shall continue in full force and effect, and to this end, this Ordinance is declared to be severable.

CERTIFICATION

It is hereby certified that the foregoing Ordinance was adopted by the South Lyon City Council, Oakland County, Michigan, at a meeting of the Council duly called and held on the ____ day of _____, 2012.

CITY OF SOUTH LYON

By: _____
Julie Zemke, City Clerk

David Murphy

From: Kramer, Michael [MGKramer@aaamichigan.com]
Sent: Wednesday, March 21, 2012 4:33 PM
To: David Murphy
Subject: Emergency Services Ordinance

David, below is my proposed change to Sec 38-53 Liability for Costs

"The costs of an emergency response shall be assessed to and paid by the person(s) or entities , without regard to fault, that are involved in the incident causing the response in the following circumstances:"

Paragraph #1
Paragraph #2
Paragraph #4
Paragraph #5
Paragraph #6
Paragraph #7

"The costs of an emergency response shall be assessed to and paid by the person(s) or entities responsible for causing the response in the following circumstances:

Paragraph #3
Paragraph #8

Should you have any questions, please give me a call.

Mike

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AGENDA NOTE

New Business: Item #1

MEETING DATE: March 26, 2012

PERSON PLACING ITEM ON AGENDA: City Manager

AGENDA TOPIC: Set Special Meeting for Oakland 40 Litigation

EXPLANATION OF TOPIC: The City Council needs to set a Special Meeting to go into closed session for the Oakland 40 litigation. Tuesday April 3, 2012 is recommended.

MATERIALS ATTACHED AS SUPPORTING DOCUMENTS: N/A

POSSIBLE COURSES OF ACTION: Approve/do not approve setting a Special Meeting to go into closed session for the Oakland 40 litigation on Tuesday April 3, 2012.

RECOMMENDATION: Approve setting a Special Meeting to go into closed session for the Oakland 40 litigation on Tuesday April 3, 2012.

SUGGESTED MOTION(s): Motion by _____, supported by _____ to approve setting a Special Meeting to go into closed session for the purpose of Oakland 40 litigation on Tuesday April 3, 2012.

AGENDA NOTE

New Business: Item #2

MEETING DATE: March 26, 2012

PERSON PLACING ITEM ON AGENDA: City Manager

AGENDA TOPIC: Declaration of Restrictive Covenant – 138 Lafayette

EXPLANATION OF TOPIC: Arcadis US Inc. is working on behalf of BP Products North America to clean-up the old Amoco gas station at 138 Lafayette Street and is asking the City to enter into a Declaration of Restrictive Covenant with the DEQ to close out the site. The Declaration of Restrictive Covenant would restrict certain things from being developed on the property such as residential housing. This would allow Arcadis and BP to clean up the site to a level agreeable to the State and to close out the site once they have achieved that level of clean up.

MATERIALS ATTACHED AS SUPPORTING DOCUMENTS: Proposed Declaration of Restrictive Covenant between the City and the DEQ

POSSIBLE COURSES OF ACTION: Approve/do not approve the proposed Declaration of Restrictive Covenant.

RECOMMENDATION: Approve the proposed Declaration of Restrictive Covenant.

SUGGESTED MOTION(s):

Motion by _____, supported by _____ to approve proposed Declaration of Restrictive Covenant between the City and the DEQ as presented.



Michigan Department of Environmental Quality
Remediation and Redevelopment Division

Form EQP3854 is to be used for the Declaration of Restrictive Covenant. Please reference Operational Memorandum No. 6 to guide you in completing the form for the Final Assessment Report or the Closure Report. The instructions and forms can be found at: www.michigan.gov/deqrrd. Scroll down and click on Operational Memoranda, Cleanup Requirements, Forms, and Guidance. Proceed to click on Operational Memorandum No. 6.

Restrictive Covenant-Final Assessment Report EQP3854A (Rev 12/2007)

The Michigan Department of Environmental Quality (MDEQ) will not discriminate against any individual or group on the basis of race, sex, religion, age, national origin, color, marital status, disability, or political beliefs. Questions or concerns should be directed to the MDEQ Office of Human Resources, P.O. Box 30473, Lansing, MI 48909.

DECLARATION OF RESTRICTIVE COVENANT

MDEQ Reference No. RC-RRD-213-_____

This Declaration of Restrictive Covenant (Restrictive Covenant) was recorded with the **Oakland** County Register of Deeds to protect public health, safety, and welfare, and the environment by prohibiting or restricting activities that could result in unacceptable exposure to environmental contamination present at the property located at **138 Lafayette Street, County of Oakland, City of South Lyon, State of Michigan** and legally described in the attached Exhibit 1 (Property).

The Property is associated with **FID #0-00005730**, for which a Final Assessment Report (FAR) was completed under Part 213, Leaking Underground Storage Tanks, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA), MCL 324.21301 *et seq.* Corrective actions that were implemented to address environmental contamination are fully described in the FAR dated **(report submittal pending)** and submitted to the Michigan Department of Environmental Quality (MDEQ) by the owner or operator as defined by Section 21303(a) or (b) of the NREPA. A copy of the FAR is available from the MDEQ Remediation and Redevelopment Division (RRD) District Office.

Part 213 of NREPA requires the recording of this Restrictive Covenant with the **Oakland** County Register of Deeds based upon the corrective action activities for the site to: (1) restrict unacceptable exposures to regulated substances located on the Property; (2) assure that the use of the Property is consistent with the exposure assumptions used to develop cleanup criteria under Section 21304a(2) of the NREPA, and (3) assure the exposure control measures relied upon in the FAR are effective; (4) to prevent damage or disturbance of any element of the corrective action plan an asphalt cap must remain constructed on the Property. The restrictions contained in this Restrictive Covenant are based upon information available at the time the FAR was implemented by **BP Products North America, Inc.** Failure of the corrective action to achieve and maintain the cleanup criteria, exposure controls, and requirements specified in the FAR; future changes in the environmental condition of the Property or changes in the cleanup criteria developed under Section 21304a(2) of the NREPA; the discovery of environmental conditions at the Property that were not accounted for in the FAR; or use of the Property in a manner inconsistent with the restrictions described below may result in this Restrictive Covenant not being protective of public health, safety, and welfare, and the environment.

Exhibit 2 provides a survey of the Property that is subject to the land and/or resource use restrictions specified in this Restrictive Covenant.

Definitions

For the purposes of this Restrictive Covenant, the following definitions shall apply:

"MDEQ" means the Michigan Department of Environmental Quality, its successor entities, and those persons or entities acting on its behalf.

"Owner" means at any given time the then-current title holder of all or any portion of the Property.

"RBCA" means the American Society for Testing and Materials (ASTM) document entitled, "Standard Guide for Risk-Based Corrective Action Applied at Petroleum Release Sites," Designation E 1739-95.

All other terms used in this document which are defined in Part 3, Definitions, of the NREPA; Part 213 of the NREPA; Part 201, Environmental Remediation, of the NREPA; or the Part 201 Administrative Rules (Part 201 Rules), 1990 AACRS R 299.5101 *et seq.*, shall have the same meaning in this document as in Parts 3, 213, and 201, and the Part 201 Rules, as of the date this Restrictive Covenant is filed.

Summary of Corrective Actions

(TO BE COMPLETED FOLLOWING IMPLEMENTATION OF CORRECTIVE ACTIONS)

THEREFORE,

1. Declaration of Land and Resource Use Restrictions

In accordance with the FAR, **BP Products North America, Inc., with the express written permission of the Owner of the Property**, covenants that the Property is subject to the following restrictions:

a. Prohibited Land Uses. The Owner shall prohibit all uses of the property that are not compatible with the **non-residential** land use relied on by the FAR and allowed under Section 21304a(2) of the NREPA, and generally described in the "Description of Allowable Uses," attached as Exhibit 3. **Non-residential** Cleanup criteria for land use-based corrective actions are located in the Government Documents Section of the Library of Michigan.

b. Prohibited Activities to Eliminate Unacceptable Exposures to Regulated Substances. The Owner shall prohibit activities **on the Property** that may result in exposures above levels established in the FAR. These prohibited activities include:

- **The construction of wells or other devices used to extract groundwater for consumption, irrigation, or any other purpose, except as provided below:**
 - **Wells and other devices constructed for the purpose of evaluating groundwater quality or to remediate subsurface contamination associated with a release of regulated substances into the environment are permitted, provided the construction of these wells or devices complies with all applicable local, state and federal laws and regulations and does not cause or result in a new release, exacerbation of existing contamination, or any other violation of local, state, or federal laws or regulations.**

- **Short-term dewatering for construction purposes is permitted provided the dewatering, including management and disposal of the groundwater, is conducted in accordance with all applicable local, state, and federal laws and regulations and does not cause or result in a new release, exacerbation of existing contamination, or any other violation of local, state, and federal environmental laws and regulations including, but not limited to, Part 213 of the NREPA.**
- **The asphalt and concrete pavement present onsite serves to prevent exposures to contaminated soil at the Property. Any excavation or other intrusive activity that could affect the integrity of the asphalt or concrete is prohibited, except during short-term construction or repair projects. Any excavation or other intrusive activity, including removing, altering, or disturbing the asphalt or concrete barrier, that could affect the integrity of the barrier, must be replaced with a cover that provides at least an equivalent degree of protection as the original barrier within 14 days of completion of the work. Repair and/or replacement of the barrier must be completed unless additional sampling is conducted by Owner at Owner's sole expense that demonstrates that a barrier in the area is no longer necessary in accordance with the applicable provisions and requirements of Part 201 of the NREPA.**
- **Any additions or alterations to current buildings or structures must first be assessed for environmental impact at the expense of the owner at the time of the additions or alterations.**

c. Prohibited Activities to Ensure Effectiveness and Integrity of the Corrective Action. The Owner shall prohibit activities on the Property that may interfere with any element of the FAR, including the performance of operation and maintenance activities, monitoring, or other measures necessary to ensure the effectiveness and integrity of the FAR.

- **The asphalt and concrete pavement present onsite serves to prevent exposures to contaminated soil at the Property. Any excavation or other intrusive activity that could affect the integrity of the asphalt or concrete is prohibited, except during short-term construction or repair projects. Any excavation or other intrusive activity, including removing, altering, or disturbing the asphalt or concrete barrier, that could affect the integrity of the barrier, must be replaced with a cover that provides at least an equivalent degree of protection as the original barrier within 14 days of completion of the work. Repair and/or replacement of the barrier must be completed unless additional sampling is conducted that demonstrates that a barrier in the area is no longer necessary in accordance with the applicable provisions and requirements of Part 201 of the NREPA.**

d. Contaminated Soil Management. The Owner shall manage all soils, media, and/or debris located on the Property in accordance with the applicable requirements of Sections 21304b and 20120c of the NREPA; Part 111, Hazardous Waste Management, of the NREPA; Subtitle C of the Resource Conservation and Recovery Act, 42 USC Section 6901 *et seq.*; the administrative rules promulgated thereunder; and all other relevant state and federal laws.

- **Such management shall include, but not be limited to, appropriate characterization and disposal, consistent with the requirements listed above, for any soils or debris that are relocated onsite or transported offsite.**
- **Cost incurred from the excavation, characterization, and disposal of soils or groundwater removed from the Property as a result of additional site construction activities or improvements will be at the expense of the Owner at the time of soil excavation or groundwater removal.**

2. MDEQ Access. The Owner grants to the MDEQ and its designated representatives the right to enter the Property at reasonable times for the purpose of determining and monitoring compliance with the FAR, including the right to take samples, inspect the operation and maintenance of the corrective action measures and inspect any records relating to them, and to perform any actions necessary to maintain compliance with Part 213 and the FAR.

3. Conveyance of Property Interest. A conveyance of title, easement, or other interest in the Property shall not be consummated by the Owner without adequate and complete provision for compliance with the terms of the FAR and this Restrictive Covenant. A copy of this Restrictive Covenant shall be provided to all future owners, heirs, successors, lessees, easement holders, assigns, and transferees by the person transferring the interest in accordance with Section 20116(3) and Section 21310a(2)(c) of the NREPA.

- **BP Products North America, Inc. and its representatives retain right of access to the Property to conduct activities related to those described in this restrictive covenant.**

4. Audits Pursuant to Section 21315 of the NREPA. This Restrictive Covenant is subject to audits in accordance with the provisions of Section 21315 of the NREPA, and such an audit may result in the finding by the MDEQ that this Restrictive Covenant is not protective of the public health, safety, and welfare, and the environment.

5. Term of Restrictive Covenant. This Restrictive Covenant shall run with the Property and is binding on the Owner; future owners; and their successors and assigns, lessees, easement holders, and any authorized agents, employees, or persons acting under their direction and control. This Restrictive Covenant shall continue in effect until the MDEQ or its successor determines that regulated substances no longer present an unacceptable risk to the public health, safety, or welfare, or the environment, and may only be modified or rescinded with the written approval of the MDEQ.

6. Enforcement of Restrictive Covenant. The State of Michigan, through the MDEQ, and **BP Products North America, Inc.** may individually enforce the restrictions set forth in this Restrictive Covenant by legal action in a court of competent jurisdiction.

7. Disclaimer. This Property contains regulated substances in excess of the concentrations developed as the unrestricted residential criteria under Section 21304a(2) of the NREPA. The MDEQ recommends that prospective purchasers or users of this Property undertake appropriate due diligence prior to acquiring or using this Property and undertake appropriate actions to comply with the requirements of Section 20107a of the NREPA.

8. Severability. If any provision of this Restrictive Covenant is held to be invalid by any court of competent jurisdiction, the invalidity of that provision shall not affect the validity of any other provision of this Restrictive Covenant, which shall continue unimpaired and in full force and effect.

9. Authority to Execute Restrictive Covenant. The undersigned person executing this Restrictive Covenant is the Owner, or has the express written permission of the Owner _____, and certifies that he or she is duly authorized to execute and record this Restrictive Covenant.

IN WITNESS WHEREOF, **BP Products North America, Inc.** has caused this Restrictive Covenant, **RC-RRD-213-**
_____, to be executed on this _____.

By: _____

Name: Randal Coil

Title: Environmental Business Manager

STATE OF **Texas**
COUNTY OF **Harris**

Acknowledged before me in Harris County, Texas on _____ by Randal Coil, Environmental
Business Manager, Atlantic Richfield Company, on behalf of its affiliate, BP Products North America, Inc., a
Delaware Corporation.

Notary Public Signature

Notary Public, State of _____

County of _____

My commission expires: _____

Acting in the County of _____

Drafted by: _____

Name: _____

Company: _____

Address: _____

CONSENT OF OWNER

I, _____, the current and legal Owner of the Property, do hereby consent to the recording of this Restrictive Covenant and authorize _____ to file this Restrictive Covenant with the _____ County Register of Deeds for recording:

By: _____

Name: _____

Title: _____

STATE OF _____
COUNTY OF _____

Notary Public Signature

Notary Public, State of _____
County of _____
My commission expires: _____
Acting in the County of _____

EXHIBIT 1

LEGAL DESCRIPTION OF PROPERTY

PARCEL I:

A part of Block 1 of Calkins' Addition to the Village of South Lyon, according to the plat thereof recorded in Liber 3 of Plats, Page 48, Oakland County Records, described as: Commencing at the Southeast corner of said Block 1 at the intersection of Lafayette and Liberty Streets; thence running North along the East line of said block 69 feet; thence West parallel with the South line of said block 60 feet; thence South parallel with the Easterly line of said block 69 feet to the South line of said block; thence East along the South line of said block 60 feet to the place of beginning now known as Lot 30 of Assessor's Plat No. 1 of part of the Southwest $\frac{1}{4}$ of Section 20 and the Northwest $\frac{1}{4}$ of Section 29 and the Northeast $\frac{1}{4}$ of Section 30, Township 1 North, Range 7 East, City of South Lyon, Oakland County, Michigan, according to the plat thereof recorded in Liber 52 of Plats, Page 38, Oakland County Records.

PARCEL II:

Lot 27, Assessor's Plat No. 1, parts of Southwest $\frac{1}{4}$ of Section 20, Northwest $\frac{1}{4}$ of Section 29 and Northeast $\frac{1}{4}$ of Section 30, Township 1 North, Range 7 East, City of South Lyon, Oakland County, according to the plat thereof recorded in Liber 52 of Plats, Page 38, Oakland County Records. Also Lot 6, Block 1, Sylvester Calkins' Addition to South Lyon, Oakland County, according to the plat thereof, recorded in Liber 3 of Plats, Page 48, Oakland County Records.

PARCEL III:

Lot 28, Assessor's Plat No. 1, parts of Southwest $\frac{1}{4}$ of Section 20, Northwest $\frac{1}{4}$ of Section 29 and Northeast $\frac{1}{4}$ of Section 30, Township 1 North, Range 7 East, City of South Lyon, according to the plat thereof recorded in Liber 52 of Plats, Page 38, Oakland County Records.

EXHIBIT 2

SURVEY OF THE PROPERTY AND LIMITS OF LAND OR RESOURCE USE RESTRICTIONS

- The construction of wells or other devices used to extract groundwater for consumption, irrigation, or any other purpose, except as provided below:
 - Wells and other devices constructed for the purpose of evaluating groundwater quality or to remediate subsurface contamination associated with a release of regulated substances into the environment are permitted, provided the construction of these wells or devices complies with all applicable local, state and federal laws and regulations and does not cause or result in a new release, exacerbation of existing contamination, or any other violation of local, state, or federal laws or regulations.
 - Short-term dewatering for construction purposes is permitted provided the dewatering, including management and disposal of the groundwater, is conducted in accordance with all applicable local, state, and federal laws and regulations and does not cause or result in a new release, exacerbation of existing contamination, or any other violation of local, state, and federal environmental laws and regulations including, but not limited to, Part 213 of the NREPA.
- The asphalt and concrete pavement present onsite serves to prevent exposures to contaminated soil at the Property. Any excavation or other intrusive activity that could affect the integrity of the asphalt or concrete is prohibited, except during short-term construction or repair projects. Any excavation or other intrusive activity, including removing, altering, or disturbing the asphalt or concrete barrier, that could affect the integrity of the barrier, must be replaced with a cover that provides at least an equivalent degree of protection as the original barrier within 14 days of completion of the work. Repair and/or replacement of the barrier must be completed unless additional sampling is conducted by Owner at Owner's sole expense that demonstrates that a barrier in the area is no longer necessary in accordance with the applicable provisions and requirements of Part 201 of the NREPA.
- Any additions or alterations to current buildings or structures must first be assessed for environmental impact at the expense of the owner at the time of the additions or alterations.
- Such management shall include, but not be limited to, appropriate characterization and disposal, consistent with the requirements listed above, for any soils or debris that are relocated onsite or transported offsite.
- Cost incurred from the excavation, characterization, and disposal of soils or groundwater removed from the Property as a result of additional site construction activities or improvements will be at the expense of the Owner at the time of soil excavation or groundwater removal.

EXHIBIT 3

DESCRIPTION OF ALLOWABLE USES

Nonresidential Land Use: This land use is characterized by any use which is not residential in nature and is primarily characterized by industrial and commercial uses. Industrial uses typically involve manufacturing operations engaged in processing and manufacturing of materials or products. Other examples of industrial uses are utility companies, industrial research and development, and petroleum bulk storage. Commercial uses include any business or income-producing use such as commercial warehouses, lumber yards, retail gas stations, auto dealerships and service stations, as well as office buildings, banks, and medical/dental offices (not including hospitals). Commercial uses also include retail businesses whose principal activity is the sale of food or merchandise within an enclosed building and personal service establishments which perform services indoors such as health clubs, barber/beauty salons, photographic studios, etc.

Any residential use is specifically prohibited from the non-residential land use category. This would include the primary use of the property for human habitation and includes structures such as single family dwellings, multiple family structures, mobile homes, condominiums, and apartment buildings. Residential use is also characterized by any use which is intended to house, educate, or provide care for children, the elderly, the infirm, or other sensitive populations, and therefore could include day care centers, educational facilities, hospitals, elder care facilities, and nursing homes. The use of any accessory building or portion of an existing building as a dwelling unit permitted for a proprietor or storekeeper and their families, located in the same building as their place of occupation, or for a watchman or caretaker is also prohibited. Any authority that allows for residential use of the Property as a legal non-conforming is also restricted per the prohibitions contained in this restrictive covenant.

EXHIBIT 4

CONSENT OF EASEMENT HOLDERS

As evidenced below by my signature, I agree and consent to the recording of the land use and resource use restrictions specified in this Restrictive Covenant.

By: _____

Name: _____

Title: _____

STATE OF _____
COUNTY OF _____

Notary Public Signature

Notary Public, State of _____
County of _____
My commission expires: _____
Acting in the County of _____

AGENDA NOTE

New Business: Item #3

MEETING DATE: March 26, 2012

PERSON PLACING ITEM ON AGENDA: Manager

AGENDA TOPIC: Discussion on permitting of raising/housing chickens

EXPLANATION OF TOPIC: At the Council Meeting of March 12, 2012, Council Member Kivell asked to have a Council look into an ordinance that would allow the raising of chickens. I have included several ordinances that speak to chickens for Council discussion

MATERIALS ATTACHED AS SUPPORTING DOCUMENTS: Ordinances from other municipalities on chickens

POSSIBLE COURSES OF ACTION: N/A

RECOMMENDATION: N/A

SUGGESTED MOTION: N/A

Sec. 36-2.16. - Keeping of animals.

- a. The keeping of household pets, including dogs, cats, rabbits, fish, birds, hamsters, and other animals generally regarded as household pets is permitted as an accessory use in any Residential District. However, no more than three dogs or cats, four months of age or older, in any combination, nor more than a total of five animals, shall be kept or housed in or at one dwelling unit.
- b. The keeping of more than three dogs on one premises shall be deemed to be a kennel and must follow the regulations set forth in chapter 5 the Code of Ordinances.
- c. Except when provided herein, the keeping of animals not normally considered domesticated including, but not limited to, pigs, horses, sheep, cattle, poultry, reptiles and wild, vicious, and exotic animals, is prohibited in all zoning districts. However, farms, private stables, and public and commercial stables, as defined in Article XXVIII Definitions, are permitted in the RDR district.
- d. Any person residing in a single-family structure in a Single-Family Residential District in the city may keep hen chickens in compliance with the following standards:
 1. A maximum of three (3) chickens are permitted for personal use only and not for any business or commercial use;
 2. Roosters are prohibited;
 4. Slaughtering is prohibited;
 5. Chickens shall be provided, and remain within, a fully enclosed coop with an optional covered fenced enclosure, with a maximum area of 300 square feet for both, meeting the standards of Section 2.09, Fences and Walls;
 6. The following coop requirements must be met:
 - (a) Minimum size of 4 square feet per chicken;
 - (b) Must be fully enclosed, except for the opening leading to additional fenced area (if included) so as to prevent rats, mice, or other rodents or vermin from being harbored underneath or within the walls of the structure or enclosure;
 - (c) It must be clean, dry, odor-free and kept in a neat and sanitary condition and in compliance with all city ordinances;
 - (d) The coop may not be located within any side or front yard and may not be any closer than twenty-five (25) feet from any dwelling on a neighboring property or ten (10) feet from any property line;
 - (e) The structure is subject to standards of Section 2.01, Accessory Buildings, Structures and Uses, except setbacks and maximum size, which shall meet those identified above.
 7. A sketch plan must be submitted which indicates the location of the coop, along with any associated fencing, all dimensions and the setbacks from the property lines;
 8. A permit must be obtained annually from the city to ensure continued compliance with the above standards. Failure to remain in compliance with these standards may result in the withdrawal of said permit;
 9. Notwithstanding the issuance of a permit by the City, private restrictions on the use of property shall remain enforceable and take precedence over a permit. Private restrictions include but are not limited to deed restrictions, condominium master deed restrictions, neighborhood association by-laws, and covenant deeds. A permit issued to a person whose

property is subject to private restrictions that prohibit the keeping of chickens is void. The interpretation and enforcement of the private restriction is the sole responsibility of the private parties involved.

Exact Wording Used by Other Cities

CITY OF ROMULUS

Animals:

- (a) **Domestic:** Any animal customarily kept by humans for companionship, including but not limited to dogs, cats, birds, fish, rabbits, ferrets, gerbils, hamsters, turtles, and the like.
- (b) **Exotic:** Any species of animal not considered domestic or livestock, including but not limited to alligators, badgers, bears, beavers, bobcats, cheetah, chinchilla, chipmunks, cougars, coyotes, crows, doves, dog-wolves, eagles, elk, foxes, hawks, jaguars, kangaroos, lions, lynx, monkeys, mink, opossums, owls, porcupines, potbelly pigs, prairie dogs, raccoons, skunks, squirrels, tigers, wild turkeys, wolverines, wolves, wild hybrids or the offspring of any animals that have been bred to a wild animal, poisonous and nonpoisonous reptiles, spiders and insects and endangered species.
- (c) **Livestock:** Horses, ponies, jackasses, equine, cattle, sheep, goats, and other domestic animals normally kept or raised on a farm. Wild, vicious or exotic animals shall not be considered livestock.

DENVER COLORADO - CHICKEN ORDINANCE

ARTICLE IV. LIVESTOCK AND FOWL -

Sec. 8-82. Unlawful accumulation of manure.

Any barn, pen, corral, coop, yard or other enclosure or appurtenance thereof in which any animal, livestock or fowl shall be kept, or any other place within the city in which manure or other discharges of animals, livestock or fowl shall accumulate, and which is maintained in any insanitary condition, allowing an offensive odor to escape therefrom, or providing an insect or rodent attractant, is hereby deemed a nuisance and prohibited.

DIVISION 2. PERMIT –

Sec. 8-91. Livestock or fowl permit required.

It shall be unlawful for any person to keep, maintain, possess or harbor on any property within the city any livestock or fowl such as, but not limited to, horses, mules, donkeys, burros, cattle, sheep, goats, swine, chickens, geese, ducks or turkeys, unless a livestock or fowl permit therefor has been issued by the manager. Such permit is required to be renewed annually for a fee of fifty dollars (\$50.00) for each application.

Sec. 8-92. Nuisance-free facilities prerequisite to granting.

A permit to keep livestock or fowl within the city shall not be granted unless the owner or possessor provides facilities which will reasonably assure the manager that the premises will be maintained in a sanitary condition, free from insects and rodents, offensive odors, excessive noise, or any other conditions which constitute a public nuisance.

Sec. 8-93. Denial or revocation.

The manager may deny or revoke a permit to keep, maintain or possess livestock or fowl within the city if the manager determines that any provision of chapters 4 and 37 or article III of chapter 40, is being violated or if the manager finds that maintenance of any livestock or fowl interferes with the

reasonable and comfortable use and enjoyment of property; provided, however, that the person being aggrieved by such denial or revocation can, within ten (10) days thereafter, appeal the decision of the manager to the board of environmental health in accordance with its rules and regulations.

BOISE IDAHO - CHICKEN ORDINANCE

Section 6-07-18 POULTRY AT LARGE

It shall be unlawful for any person to allow any chickens, ducks, turkeys, geese or other fowl owned by him to run at large upon the streets, alleys or other public places of the City, or upon the property of any person without the consent of the owner.

Chapter 11-04, ZONING CLASSIFICATIONS, SUPPLEMENT NO. 43

4. The keeping of chickens in conjunction with the keeping of large animals is an exception to animal density standards. Up to six (6) chickens may be kept simultaneously and in addition to the large animals allowed per lot based on the density standard.
5. No more than one (1) rooster shall be kept on any single parcel, regardless of the size of the parcel.

PORTLAND, OREGON – CHICKEN ORDINANCE

13.05.015 Permit Required for Specified Animal Facility

- A. No person shall operate or maintain any specified animal facility unless a permit has first been obtained from the Director.
- B. Applications for specified animal facility permits shall be made upon forms furnished by the Director, and shall be accompanied by payment of the required fee. Specified animal facility permits shall be valid from the date of issuance until such time as the Director determines by inspection that the facility is not being maintained in compliance with the issuance criteria. Applications for a specified animal facility permit shall be accompanied by adequate evidence, as determined by the Director, that the applicant has notified all of the property owners and residents within 150 feet of the property lines of the property on which the specified animal facility will be located.
- C. The Director shall issue a specified animal facility permit to the applicant, only after the Director has reviewed a completed and signed application which grants the Director permission to enter and inspect the facility at any reasonable time, and assuring the Director that the issuance criteria have been met. If the Director has reasonable grounds to believe that an inspection is necessary, the Director shall inspect the facility in order to determine whether the issuance criteria have been met. The criteria for issuing a specified animal facility permit are as follows:
 1. The facility is in good repair, capable of being maintained in a clean and in a sanitary condition, free of vermin, obnoxious smells and substances;
 2. The facility will not create a nuisance or disturb neighboring residents due to noise, odor, damage or threats to public health;
 3. The facility will reasonably prevent the specified animal from roaming at large. When necessary for the protection of the public health and safety, the Director may require the

specified animal be kept or confined in a secure enclosure so that the animal will not constitute a danger to human life or property;

4. Adequate safeguards are made to prevent unauthorized access to the specified animal by general members of the public;
5. The health or well being of the animal will not be in any way endangered by the manner of keeping or confinement;
6. The facility will be adequately lighted and ventilated;
7. The facility is located on the applicant's property so as to be at least 15 feet from any building used or capable of being used for human habitation, not including the applicant's own dwelling. Facilities for keeping bees, such as beehives or apiaries, shall be at least 15 feet from any public walkway, street or road, or any public building, park or recreation area, or any residential dwelling. Any public walkway, street, or road or any public building, park or recreation area, or any residential dwelling, other than that occupied by the applicant, that is less than 150 feet from the applicant beehives or apiaries shall be protected by a six foot hedgerow, partition, fence or similar enclosure around the beehive or apiary, installed on the applicant's property.
8. If applicable, the structure must comply with the City's building code and must be consistent with the requirements of any applicable zoning code, condition of approval of a land use decision or other land use regulation; and
9. The applicant shall demonstrate, to the Director's satisfaction, sufficient ability to respond to any claims for damages for personal injury or property damage which may be caused by any specified animal kept at the facility.
 - a. The Director may require the applicant to provide proof of sufficient liability Insurance to respond to damages for any personal or property damages caused by any specified animal kept at the facility. The insurance shall provide that the insurance shall not be canceled or materially altered so as to be out of compliance with the requirements of this Chapter without thirty (30) days written notice first being given to the Director. The applicant shall provide a certificate of insurance to the Director within ten (10) days of the issuance of the permit. The Director shall revoke the permit upon any failure to maintain sufficient liability insurance as required under this subsection.

D. Each specified animal facility permit issued by the Director shall be conditioned on the applicant maintaining the facility in compliance with each of the issuance criteria. If the Director determines by inspection that the specified animal facility is not being maintained in compliance with the issuance criteria, the specified animal facility permit shall no longer be valid and shall be revoked. Before operation of the facility resumes, submission of a new application for a specified animal facility permit accompanied by payment of the permit fees shall be required, and the facility shall not be allowed to operate until such time as the Director has inspected the facility and determined that all issuance criteria have been met. The Director may impose other conditions on the permit, including but not limited to, a bond or security deposit necessary to protect the public health or safety.

E. ***A person keeping a total of three or fewer chickens, ducks, doves, pigeons, pygmy goats or rabbits shall not be required to obtain a specified animal facility permit.*** If the Director determines that the keeper is allowing such animals to roam at large, or is not keeping such animals in a clean and sanitary condition, free of vermin, obnoxious smells and substances, then the person shall be required to apply for a facility permit to keep such animals at the site.

- F. These provisions for specified animal control are intended to provide city-wide regulations for keeping specified animals within the City. However, due to the variety of animals covered by these regulations and the circumstances under which they may be kept, these regulations should be applied with flexibility. Variances provide flexibility for unusual situations, while maintaining control of specified animals in an urban setting. The Director should grant variances if the proposal meets the intended purpose of the regulation, while not complying with the strict literal requirements.

NEW YORK CITY - CHICKEN ORDINANCE

- Permits would be granted only to residents of single- or two-family homes.
- Birds would have to be provided with a covered enclosure and fenced or in that enclosure at all times.
- Chicken coops would have to be 10 feet from any property line and no closer than 40 feet from any residential structure on an adjacent property. (Neighbors could agree to a waiver.)
- Coops and feed would have to be secured to prevent problems with mice or other pests.

Health Code § 161.19 Keeping of live poultry and rabbits.

- (a) No person shall keep a live rooster, duck, goose or turkey in a built-up portion of the City.
- (b) A person who holds a permit to keep for sale or sell live rabbits or poultry shall keep them in coops and runways and prevent them from being at large. Coops shall be whitewashed or otherwise treated in a manner approved by the Department at least once a year and at such other times as the Department may direct in order to keep them

Health Code § 161.09 Permits to keep certain animals.

- (a) No person shall operate a pet shop, grooming parlor, boarding kennel or training establishment for small animals without a permit issued by the Commissioner.
- (b) No person shall construct or operate a shelter for homeless animals without a permit issued by the Commissioner.
- (c) No person shall sell or keep for sale live rabbits or live poultry, including chickens, geese, ducks or other fowl, without a permit issued by the Commissioner. Such permit shall not include the right to slaughter rabbits or poultry for sale as food for human consumption for which a permit must be obtained pursuant to Article 93. A permit shall not be issued for the sale or keeping for sale of live roosters, ducks, geese or turkeys in the built-up portions of the city. A permit shall not be issued for the sale or keeping for sale of live rabbits or poultry on the same lot as a multiple dwelling as defined in section 4 of the Multiple Dwelling Law or, unless the consent of the occupants is obtained, on the same lot as a two-family home. A permit shall not be issued unless the coops or runways are more than 25 feet from an inhabited building other than a one-family home occupied by the applicant and unless the applicant submits to the Department the written consent of the owner of the lot on which the poultry or rabbits are to be kept.
- (d) Coops, runways and the surrounding area shall be kept clean.
- (e) In addition to domesticated dogs and cats, an animal may be kept, possessed, harbored or sold in the City of New York provided that possession of the animal is not otherwise prohibited by law, including federal, state and local laws regulating domestic animals and livestock or protecting wildlife and endangered species. Such animals include, but are not limited to, gerbil, hamster

(*Mesocricetus auratus*), guinea pig, domesticated rabbit and fowl or small birds such as parakeet, parrot, canary and finch.

SEATTLE - MUNICIPAL CODE FOR KEEPING CHICKENS

Title 23 - Land Use Code

Subtitle IV - Land Use Regulations

Division 2 - Authorized Uses and Development Standards

Chapter 23.44 - Residential, Single-Family

SMC 23.44.048 Keeping of animals.

The keeping of small animals, farm animals, domestic fowl and bees is permitted outright in all zones as an accessory use to any principal use permitted outright or to a permitted conditional use, in each case subject to the standards of this Section.

- A. **Small Animals.** Up to three (3) small animals may be kept accessory to each business establishment or dwelling unit on a lot, except as follows:
1. In no case is more than one (1) miniature potbelly pig allowed per business establishment or dwelling unit (see subsection B of this section).
 2. In single-family zones,
 - a. accessory dwelling units shall not be considered separate dwelling units for the purpose of this section;
 - b. up to four (4) small animals are permitted on lots of at least twenty thousand (20,000) square feet; and
 - c. one (1) additional small animal is permitted for each five thousand (5,000) square feet of lot area in excess of twenty thousand (20,000) square feet. Accessory structures, including kennels, for four (4) or more animals must be at least ten (10) feet from any other lot in a residential zone.
- B. **Miniature Potbelly Pigs.** That type of swine commonly known as the Vietnamese, Chinese, or Asian Potbelly Pig (*Sus scrofa bittatus*) may be kept as a small animal, provided that no swine that is greater than twenty-two (22) inches in height at the shoulder or more than one hundred fifty (150) pounds in weight may be kept in the City.
- C. **Domestic Fowl.** *Up to three (3) domestic fowl may be kept on any lot in addition to the small animals permitted in subsection A.* For each one thousand (1,000) square feet of lot area in excess of the minimum lot area required for the zone or, if there is no minimum lot area, for each one thousand (1,000) square feet of lot area in excess of five thousand (5,000) square feet, one (1) additional domestic fowl may be kept.
- D. **Farm Animals.** Cows, horses, sheep and other similar farm animals are permitted only on lots of at least twenty thousand (20,000) square feet. The keeping of swine is prohibited, except for miniature potbelly pigs allowed under subsection B of this section.
1. One (1) farm animal for every ten thousand (10,000) square feet of lot area is permitted.
 2. Farm animals and structures housing them must be kept at least fifty (50) feet from any lot in a residential zone.
- E. **Beekeeping.** Beekeeping is permitted outright as an accessory use, when registered with the State Department of Agriculture, provided that:

1. No more than four (4) hives, each with only one (1) swarm, shall be kept on lots of less than ten thousand (10,000) square feet.
 2. Hives shall not be located within twenty-five (25) feet of any lot line except when situated eight (8) feet or more above the grade immediately adjacent to the grade of the lot on which the hives are located or when situated less than eight (8) feet above the adjacent existing lot grade and behind a solid fence or hedge six (6) feet high parallel to any property line within twenty-five (25) feet of a hive and extending at least twenty (20) feet beyond the hive in both directions.
- F. **Miniature Goats.** The types of goats commonly known as Pygmy, Dwarf and Miniature Goats may be kept as small animals, provided that male miniature goats are neutered and all miniature goats are dehorned. Nursing offspring of miniature goats licensed according to the provisions of this Code may be kept until weaned, no longer than 12 weeks from birth, without violating the limitations of
- (Ord. [122508](#) , Section 1, 2007; Ord. [122311](#) , Section 23, 2006)

FORT COLLINS, COLORADO – CHICKEN ORDINANCE

Farm animals shall mean animals commonly raised or kept in an agricultural, rather than an urban, environment including, but not limited to, chickens, pigs, sheep, goats, horses, cattle, llamas, emus, ostriches, donkeys and mules. Chicken hens, numbering six (6) or fewer, shall be considered pets and not be considered farm animals.

City Code Section 4-117(a)

Up to six (6) chicken hens may be allowed for the purpose of producing eggs, subject to the following restrictions:

1. No roosters are allowed.
2. No slaughtering is allowed.
3. Chicken hens shall be kept within a secure enclosure.
4. Enclosures shall be located at least fifteen (15) feet from the nearest property line.

MADISON, WISCONSIN – CHICKEN ORDINANCE

Sec. 28.08(9)(b)6. ZONING CODE

- j. Keeping of up to four (4) chickens, provided that:
 - i. The principal use is a single-family dwelling.
 - ii. No person shall keep any rooster.
 - iii. No person shall slaughter any chickens.
 - iv. The chickens shall be provided with a covered enclosure and must be kept in the covered enclosure or a fenced enclosure at all times. (Am. by Ord. 13,698, 9-29-04)
 - v. No enclosure shall be located closer than twenty-five (25) feet to any residential structure on an adjacent lot.
 - vi. The owner or operator obtains a license under Sec. 9.52, M.G.O.

9.52 KEEPING OF CHICKENS.

Any person who keeps chickens in the City of Madison shall obtain an annual license prior to January 1 of each year, or within 30 days of acquiring the chickens. The license year commences on January 1 and ends on the following December 31.

Application shall be made to the City Treasurer and the fee for the license shall be ten dollars (\$10.00). The Treasurer or other authorized individual shall collect the fee and shall assess and collect a late fee of five dollars (\$5.00) from every owner of chickens, if the owner fails to obtain a license prior to April 1 of each year, or fails to obtain a license within 30 days of acquiring the chickens. All late fees received or collected shall be paid into the local Treasury.


(Cr. by Ord. 13,605, 5-21-04; ORD-06-00154, 11-23-06)

7.29 RELATING TO KEEPING OF FOWL WITHIN THE CITY OF MADISON.

- (1) No person shall keep any ducks, geese, pigeons, birds, or other fowl within the City of Madison in any unsanitary condition or within such proximity of dwelling houses or in any manner so as to be a nuisance.
- (2) The Director of Public Health shall, upon complaint or on his own initiative, inspect, or order Health Inspectors to inspect, premises upon which fowl are kept and ascertain and determine whether the conditions are unsanitary or if for any reason a nuisance is caused thereby. If the Director of Public Health determines that conditions are unsanitary, or if for any reason a nuisance exists, he shall order the owner or occupant of the premises to abate the nuisance and it shall thereupon be unlawful to keep such fowl on the premises.

Sec. 34-53. - Enumeration.

The following acts, conduct, omissions or conditions are hereby declared to be dangerous to the health, safety, or welfare of the inhabitants of the city, to be nuisances and to be unlawful:

-  (1) The permitting to run at large within the limits of the city of cattle, sheep, swine, horses, or other animals, chickens, ducks, geese, turkeys, or other domesticated poultry, or the keeping within the city of any animals, fowl or poultry under conditions causing offensive or noisome odors.
- (2) The permitting or maintaining of any place in which a gaming table or other gambling device or apparatus is operated or any game of skill or chance or partly of skill or chance is played for hire, gain or reward by either the owners, operators, players or participants.
- (3) The riding of bicycles by persons, other than the City of Plymouth or other on-duty police officers, upon any public sidewalk in the business or retail districts of the city.
- (4) The printing, painting, staining, or impressing on or the nailing, posting, tacking, or otherwise attaching to, on, or upon, any telephone, telegraph, electric light or power pole, any tree or shrub or other installation, located in any street, highway or alley in the city of any advertising of any kind or nature whatsoever.
- (5) The operation or the pushing or hauling of any engine tractor, machine, or conveyance having wheels with iron or steel flutes or lugs on, upon, along or across any paved street within the city without protecting the pavement of such street by planks or other covering to prevent injury to the same.
- (6) The firing or causing to be fired, by any person, other than a police or peace officer of any rifle, revolver, pistol, or other gun or weapon in any of the public streets, alleys, parks, cemeteries or other public places in the city.
- (7) The casting or depositing of ashes, dirt, stones, bricks, old automobiles or parts thereof, metals, paper, trees or cuttings therefrom, bottles, cans, garbage, waste, refuse or any other excess or abandoned material by any person upon lands not his own or upon any public street, highway, alley, park, cemetery, or other public place or property of the city within or outside of the city limits, provided, however, the deposit of such materials upon lands not owned by the depositor shall not be unlawful if done with the consent of the owner, person or official in control of such land.
- (8) The obstructing of or the discharge into or the depositing in any watercourse, drain or sewer of the city, or in any drain or sewer connecting with those of the city, of any oil, grease, inflammable liquid, chemical, substance or material damaging or harmful to city watercourses, drains or sewers, or detrimental to the operation thereof or injurious to the health of the city's inhabitants by reason of discharge or deposit.
- (9) The driving of any motor or other vehicle upon any city owned property, either within or without the city limits, other than upon highways, roads, streets, or alleys or upon parking areas, without authority of the city manager or city commission.
- (10) The littering or maintaining or keeping of litter of any waste materials such as ashes, dirt, stones, bricks, old automobiles or parts thereof, metals, paper, trees or cuttings therefrom, bottles, cans, garbage, waste products or debris or any other excess or abandoned materials by any person upon premises of which he is the owner, occupant, or of which he is in charge, or upon any adjacent public street or alley; provided, however, that the keeping on the premises of suitable covered metal or plastic containers, in good condition, to hold such waste material until the same is removed from such premises shall not be construed to be a violation of this section.

(Code 1982, § 9-58, Ord. No. 97-3, § 1, 5-19-97)

Sec. 14-4. - Domestic animals and fowl.

No person shall keep or house any animals or domestic fowl within the city except dogs, cats, birds, fowl or animals commonly classified as pets.

(Ord. No. 14-4, 6/27/2012)

Sec. 6-4. - Keeping animals other than pets; proximity to other dwellings; running at large.

- (a) It shall be unlawful for any person to keep any animal or fowl within one hundred seventy-five (175) feet of any dwelling other than dwelling of the owner. It shall further be unlawful for any person to permit any animal or fowl owned by him or in his possession or control to run at large in any street, alley or public place, or upon the premises of another without express permission of the owner or occupant thereof. This section shall not apply to such animals or fowl as are commonly housed in a human dwelling as household pets.
- (b) (1) A person who cannot reasonably comply with the requirement that no person shall keep any animal or fowl within one hundred seventy-five (175) feet of any dwelling other than the dwelling of the owner may file an appeal to the zoning board of appeals clearly outlining the relief sought and his or her reasons why the variance and/or modification should be granted. The applicant shall pay the appeal fees as established by the city council and shall file the application on the form provided by the city.
- (2) The zoning board of appeals shall consider these appeals at its regular hearing dates. A written notice of the time and place of such hearing shall be mailed by first class mail, postage prepaid, at least fifteen (15) days prior to the date of the hearing to all owners of record of all lots or parcels of land lying within five hundred (500) feet of the property on which the animals and/or fowl would be located. Property owners of record shall be those names that appear in the assessor's records. The applicant shall be responsible for paying the zoning board of appeals application fee as established by the city council plus any additional mailing fees.
- (3) The zoning board of appeals shall grant no variance and/or modification from the requirements of this section until it has received and reviewed a report from the planning and community development department concerning the specific request under consideration. Further, the zoning board of appeals shall grant no variance and/or modification in any particular case unless it finds all of the following facts and conditions to exist:
- a. That the granting of such variance and/or modification will not be detrimental to the public health, safety and welfare;
 - b. That the granting of such variance and/or modification will not be injurious to the property or improvements in this area;
 - c. That the granting of such variance and/or modification will not violate the overall intent and purposes of this article.
 - d. The concurring vote of two-thirds of the members of the zoning board of appeals shall be necessary in order to grant any variance from or modification to the requirements of this section.

(Code 1981 § 42.040 Ord. No. C-13-96, § 1 8-19-96)

Sec. 5-5. - Raising and keeping of animals.

No person shall keep an animal upon their property that creates a nuisance by means, such as, but not limited to, the annoyance, injury or endangerment of the safety, health or quiet enjoyment of persons upon public property or upon private property within reasonable proximity of the animal's place of keeping.

(Added 1977, § 4 (Ord. No. C-624-95, § 1, 11-6-95)

Sec. 5-12. - Keeping of animals as accessory use.

Any animal, other than a household pet, that is permitted to be kept as accessory to a principal use of a property shall be housed in accessory buildings meeting the requirements of the zoning ordinance. Notwithstanding any other provision of this Code, including the zoning ordinance, such accessory structure shall be permitted, provided that it shall not be located in the front yard of any lot, nor nearer than one hundred (100) feet to any adjoining dwelling, nor nearer than twenty-five (25) feet to the dwelling of the owner thereof. Such accessory structure shall be a covered enclosure, and the animal shall be kept within the covered enclosure or within a fenced area complying with the setback requirements below at all times, and shall not be permitted to run at large in any street, alley, or public place, or upon the premises of another.

All enclosures for the keeping of such animal shall be constructed of material that can be easily cleaned and shall be kept in a clean and sanitary condition. The enclosure shall be properly ventilated to prevent drafts and remove odors, shall be of sufficient size to accommodate the animal, and shall be designed so as to prevent rats, mice, or other rodents from being harbored underneath, inside, or inside the walls of the enclosure. The required fenced area shall be a minimum of fifteen (15) feet from the property line (a fence located on a property line shall not satisfy the requirement for a fenced area). The required fenced area must be kept free from trash and accumulated droppings.

Removal or appropriate disposal of droppings is required. Droppings not used for composting or fertilizer shall be removed. All provisions of this Code relating to noise, odor, and sanitation, including the provisions of this article, shall apply to the keeping of animals under this section.

All animals, except livestock and household pets, shall be female. No roosters are permitted on any property. No slaughtering of animals may occur except within the fenced area and in an enclosed building.

(Ord. No. 11-108.05, Pt. I, 3-7-11)

Milford, Michigan, Code of Ordinances >> PART II - CODE OF ORDINANCES >> Chapter 14 - ANIMALS >> ARTICLE II. - ANIMAL CONTROL >>

ARTICLE II. - ANIMAL CONTROL ⁽¹⁾

Sec. 14-31. - Definitions.

Sec. 14-32. - Domesticated pets.

Sec. 14-33. - Certain animals prohibited.

Sec. 14-34. - Cruelty to animals.

Sec. 14-35. - Handling of refuse and wastes.

Sec. 14-36. - Barking dogs.

Sec. 14-37. - Reasonable control.


Sec. 14-38. - Exception to article.

Sec. 14-39. - Penalty for violation of article.

Sec. 14-31. - 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:

Animal means a nonhuman zoological species classified for purposes of this article as follows:

- (1) Domesticated pet (such as a dog, cat or bird).
-  (2) Farm animal: An animal which is normally part of the livestock maintained on a farm, including:
 - a. Bovine and like animals;
 - b. Equine and like animals;
 - c. Swine and like animals;
 - d. Ovine and like animals;
 - e. Rabbits (not maintained or kept as domesticated pets);
 - f. Other farm-type animals not specifically mentioned, including but not limited to chickens, ducks and other domesticated fowl.
- (3) Wild or exotic animals. Such animals include any wild or undomesticated animal which is not of a species customarily used as an ordinary household pet, but one which would ordinarily be confined to a zoo, or one which would ordinarily be found in the wilderness of this or any other country. Such animals weigh less than 100 pounds and would not cause a reasonable person to be fearful of bodily harm or property damage.
- (4) Dangerous animals. Such animals include any wild or undomesticated animal which is not of a species customarily used as an ordinary household pet, but one which would ordinarily be confined to a zoo, or one which would ordinarily be found in the wilderness of this or any other country. Such animals would cause a reasonable person to be fearful of bodily harm or property damage.
- (5) Dangerous dogs. Any dog which, because of its aggressive nature, training, breeding or characteristic behavior, is capable of inflicting serious physical harm or death to humans or which, when unprovoked, chases or approaches persons in a menacing fashion or in an apparent attitude of attack on public or private property.

Person who maintains an animal means any person who owns or controls the animal or who owns, controls or has legal possessory right in the property on which the animal is located or maintained.

(Ord. No. 231-073, § 3, 10-7-02)

Sec. 14-32. - Domesticated pets.

Domesticated pets may be maintained in all zoning classification districts, provided that dogs are licensed in accordance with the provisions of Act No. 339 of the Public Acts of Michigan of 1919 (MCL 287.261 et seq.), as amended, and providing that dogs are kept in accordance with village regulations and provided that they do not create a public nuisance. The village council may, by resolution, impose limitations on

numbers of domesticated pets, adopt housing requirements, and impose any other restrictions deemed necessary by the council to promote the welfare of the animal and to protect neighborhood standards and community concerns. Recognizing that, because of availability of training, breeding and animal husbandry, certain species of animals formerly classified as nondomesticated animals become viewed by society as domesticated animals or household pets, the village council may, by resolution, declare a particular species as domesticated pets.

(Ord. No. 231-073, § 3, 10-7-02)

Sec. 14-33. - Certain animals prohibited.

No person or persons may house or keep farm animals, wild or exotic animals, dangerous animals and/or dangerous dogs anywhere within the Village of Milford.

(Ord. No. 231-073, § 3, 10-7-02)

Sec. 14-34. - Cruelty to animals.

No person owning or harboring any animals nor shall any other person treat an animal in a cruel or inhumane manner; or negligently or willfully cause or permit any animal to suffer unnecessary pain or torture; or willfully fail to provide the animal with proper food, drink, shelter or protection from the weather.

(Ord. No. 231-073, § 3, 10-7-02)

Sec. 14-35. - Handling of refuse and wastes.

The refuse and wastes resulting from the maintenance of animals shall be controlled upon the premises, and shall be cared for or disposed of within a reasonable time so as to minimize hazards of health and offensive effects.

(Ord. No. 231-073, § 3, 10-7-02)

Sec. 14-36. - Barking dogs.

It shall be unlawful for any person to keep or harbor any dog which by loud or frequent or habitual barking, yelping or howling, shall annoy the neighborhood, or people passing to and fro upon the streets, or which disturbs the public peace and quiet.

(Ord. No. 231-073, § 3, 10-7-02)

Sec. 14-37. - Reasonable control.

It shall be unlawful for any dog not to be confined and under reasonable control when upon the premises of its owner or custodian. When off of the premises of its owner or custodian all dogs must be leashed. Civil fines for violation of this section (14-37) shall be \$50.00 for the first offense, \$250.00 for a second offense and \$500.00 for any offense beyond two.

(Ord. No. 231-073, § 3, 10-7-02, Ord. No. 231-19, § 1, 1-3-07)

Sec. 14-38. - Exception to article.

Nothing in this article or in resolutions authorized by this article shall affect private or commercial operations dealing with animals which comply with the ordinances of the Village of Milford as well as state and federal laws and regulations.

(Ord. No. 231-073, § 3, 10-7-02)

Sec. 14-39. - Penalty for violation of article.

Any person violating any of the provisions of this article shall be deemed responsible for committing a municipal civil infraction.

(Ord. No. 231-073, § 3, 10-7-02)

FOOTNOTE(S):

¹Editor's note: Ord. No. 231-013, § 14-31 adopted Oct. 7, 2003, repealed §§ 14-31--14-35, which pertained to dogs and was amended from Ord. No. 154, §§ 57--89 and 91 April 24, 1972; Ord. No. 154-C, June 17, 1987; Section 3 of Ord. No. 231-013 provided provisions pertaining to animal control and designated as §§ 14-1--14-9 which, with the permission of the village, the editor has included as §§ 14-31--14-39. (Back)

the owner's name can be learned by means of a license tag attached to the collar of such animal, immediate notification of such impounding shall be given to the owner. If a dog is impounded and the owner or custodian thereof cannot be located, the Chief, Animal Director, or other designated person, is authorized to destroy such animal any time after five days from the date of impounding, provided that the impounding fee has not been paid to the Livingston County Animal Shelter within that time. The redemption procedure provided for herein is in addition to the penalty provided for in Section 606.99.

(Ord. 527. Passed 9-24-90.)

606.02 PROHIBITED ANIMALS.

(a) In General. Except as otherwise provided for in this section, and except for domesticated breeds of dogs and cats, no person shall keep, maintain or confine anywhere in the City, bovines, equines, sheep, goats, swine or poultry, regardless of whether the same have been domesticated or otherwise kept, maintained or confined by virtue of a State or Federal license. In addition, and by way of illustration, but not by way of limitation, no person shall keep, as a pet, the following wild or exotic animals: alligator, badger, bat, bear, beaver, bobcat, cheetah, cougar, coyote, crocodilian, eagle, elk, ermine, falcon, ferret, fox, hawk, jackal, jaguar, nonhuman primates, lemur, leopard, lion, lynx, mink, muskrat, ocelot, opossum, owl, panther, porcupine, puma, raccoon, skunk, tiger, venomous reptiles, wolf, wolf-hybrid, wolverine, weasel or wildcat.

(b) Declaration of Certain Animals as Wildlife; Rabies Risk to Humans; Testing. Animals in the following group are hereby declared to be wildlife, even if born in captivity. Animals in this group cannot be vaccinated against rabies and shall be destroyed and sent for testing by the Police Department if they bite a human being. By way of illustration, the animals designated in this group are as follows: badger, bat, beaver, coyote, ermine, fox, lemur, mink, muskrat, opossum, porcupine, raccoon, skunk, weasel, wolf and wolf-hybrid.

(c) Other Risks to Humans. Except as otherwise provided for in this section, no person shall keep, maintain or confine anywhere in the City any other animal not listed herein which may cause, by virtue of being a carrier of a disease which can be serious or fatal to humans, or which represents, by virtue of its size, disposition or physical attributes, a risk to owners and the community as a whole. If found anywhere in the City, the same shall be removed from the City forthwith.

(d) Certain Animals Declared to be Public Nuisances; Destruction or Confinement. Except as otherwise provided for in this section, if the animals designated in this section are not removed from the City forthwith by the owners thereof, after notice to said owners, the same shall be declared to be a public nuisance per se, and the City hereby has the authority to proceed to a court of competent jurisdiction to have said animals removed from within the City limits and either destroyed or confined so as to remove any risk to citizens of the City in the protection of the health, safety and welfare of the City.

(e) Resolution of Disputes re Animal Designations. If there is a dispute between the City and an owner of an animal as to whether or not said animal is prohibited by virtue of this section, then, in such event, the owner, at his or her cost, shall be afforded the opportunity to have said animal certified by a competent veterinarian, or some other person who is an expert as to the breed of said animal, to show that said animal is not prohibited pursuant to this section.

(f) Permit to Keep Animals; Requirements. Notwithstanding anything in this section to the contrary, the City Council, in its sole discretion, may allow a person to keep, maintain or confine in the

City the prohibited animals set forth in this section so long as the person requesting permission files an application with the City Clerk containing the following information:

- (1) The location and zoning classification where the animal will be kept, maintained and confined;
- (2) A detailed plan of how the animal will be kept, maintained and confined;
- (3) United States Department of Agriculture or other Federal or State approval that the applicant meets all of the criteria by either a State or Federal department and that approval has otherwise been received by the applicant;
- (4) Liability insurance for injury which could be suffered by any person related to the keeping, maintenance and confinement of the animal. City Council shall set the minimum limits of insurance as part of permit approval.
- (5) A plan of veterinary care shall be provided, signed by both the owner of the animal, any person who will be maintaining the animal not the owner, and the veterinarian; and
- (6) Any other information requested by City Council during the application process.

City Council shall not grant the application if the animal is kept, maintained or confined in any area of the City not zoned B-1 or B-2. The permit to be issued by the City Council may either be in the form of a motion, duly made and approved by a majority of the City Council members, or in writing, at the sole discretion of the City Council. Further, the permit shall be for one year, whereupon application for a new permit shall be made by the person in the manner set forth in this subsection. City Council may, by resolution, fix a fee for the issuance of a permit.

(g) Ferrets Excluded. Ferrets shall not be regulated by this section, but shall be regulated pursuant to the terms and conditions of Act 358 of the Public Acts of 1994, as amended, being M.C.L.A. 287.891 et seq.

(Ord. 677. Passed 7-20-98.)

606.03 BARKING AND HOWLING DOGS.

No person shall harbor or keep a dog which, by loud and frequent yelping or habitual barking or howling, causes a serious annoyance to other persons in the neighborhood. If said dog is caught and confined, the owner shall be notified and/or the dog destroyed pursuant to the procedures described in Section 606.01.

(Ord. 527. Passed 9-24-90.)

606.04 INTERFERENCE WITH IMPOUNDING OF ANIMALS.

No person shall prevent or hinder or attempt to prevent or hinder the impounding of any animal or the delivery of the same to the Livingston County Animal Shelter by any person authorized to do so or release or attempt to release any animal from the shelter in a manner not otherwise authorized by law.

(Ord. 527. Passed 9-24-90.)

Sec. 14-4. - Determination of keeping.

Within the meaning of this chapter, a person shall be considered as keeping or harboring animals, fowl, or birds if he shall allow animals, fowl, or birds to habitually remain or be lodged or fed upon his premises.

(Ord. 1987 § 129.0)

Sec. 14-5. - Keeping in city.

It shall be unlawful for any person owning, possessing or harboring any animal, fowl or bird to keep such animal, fowl or bird within 200 feet of any dwelling, except his own dwelling, or to suffer or permit any animal, fowl or bird owned by him, or in his possession or control, to run at large in any street or public place. This section shall not apply to such animals as are commonly kept or housed as household pets.

(Ord. 1987 § 129.0)

Sec. 14-6. - Minimum conditions for keeping.

Every person lawfully keeping or housing any animal or fowl shall care for and maintain the structure used for the keeping or harboring thereof, and shall manage and control such animal or fowl so as:

- (1) To prevent any malodorous or offensive condition to exist.
- (2) To prevent any frequent or long continued noises which shall disturb the comfort or repose of any person.
- (3) To prevent any nuisance to arise therefrom.

(Ord. 1987 § 129.0)

Sec. 10-10. - Rabbits and poultry.

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

(Ord. 98-50 § 10)

Sec. 14-7. - Restrictions on keeping certain animals.

- (a) *Pets.* No owners shall keep or house any animals or domestic fowl within the city except dogs, cats, nonpoisonous insects, and captive-bred species of rodents, common cage birds, cage birds kept pursuant to license under state or federal law, including but not limited to Michigan Act 451, PA of 1994, as amended, and the Wildlife Conservation Order as amended and under the Code of Federal Regulation (CFR), including but not limited to 50CFR 13 subpart D and 50 CFR; 1.28 and 21.29, nonpoisonous aquarium reptiles, aquarium amphibians, and aquarium fish commonly classified as pets and which are customarily kept or housed inside dwellings as household pets.
- (b) *Wild animals.*
 - (1) No person shall own, possess, or have custody on his premises any wild or vicious animal for display, training, or exhibition purposes, whether gratuitously or for a fee. This section shall not be construed to apply to AAZPA accredited facilities or cage birds kept under state or federal license.
 - (2) No person shall keep or permit to be kept any wild animal as a pet.
 - (3) The licensing authority may grant temporary permits for the keeping of infant wild animals. However, the licensing authority shall have the power to release or order the release of any infant wild animal under temporary permit that is deemed capable of survival.
- (c) *Bees.* No owner shall keep or possess any apiary containing any stands or hives of bees except as provided by [chapter 122](#).
- (d) *Rights protected by the Michigan Right to Farm Act excluded.* This section does not extend or revise in any manner the provisions of the Michigan Right to Farm Act or generally accepted agricultural and management practices developed under the Michigan Right to Farm Act. Specifically, the following are excepted from the prohibitions of this section: A farm or farm operation under the Michigan Right to Farm Act that conforms to generally accepted agricultural and management practices according to policy determined by the Michigan Commission of Agriculture and, therefore, is not a public nuisance pursuant to MCL 285.473; and a farm or farm operation that existed before a change in land use or occupancy of land within one mile of the boundaries of the farm land, and if before that change in land use or occupancy of land, the farm or farm operation would not have been a nuisance.
- (e) *Municipal civil infraction.* A person who violates any provision of this section is responsible for a municipal civil infraction, subject to payment of a civil fine as set forth in [section 70-38](#). Repeat offenses under this section shall be subject to increased fines as set forth in [section 70-38](#).

Ord. No. 1009, 10-5-2005; Ord. No. 1092 § 1 3-3-2009

Sec. 14-13. - Keeping of female chickens (hens).

- (a) Any person who keeps hens in the City of Ypsilanti shall obtain a permit from the city prior to acquiring the hens and pay a permit fee set by city council. This permit shall be kept by the owner and presented upon demand by any city official or police officer. Permits are non-transferable and do not run with the land. A permit may be obtained by any property owner of a property whose principle use is as a single-family or two-family zoned property within the City of Ypsilanti. Permits issued prior to June 1, 2010 will expire on July 1, 2011 and be renewable for two-year periods. Permits shall provide a limited license for the activity, and no vested zoning rights shall arise from said permit issuance.
- (b) Notwithstanding the issuance of a permit by the city, private restrictions on the use of property shall remain enforceable and take precedence over a permit. Private restrictions include, but are not limited to, deed restrictions, condominium master deed restrictions, and covenant deeds. A permit issued to a person whose property is subject to private restrictions that prohibit keeping of hens is void. The interpretation and enforcement of the private restriction is the sole responsibility of the private parties involved.
- (c) A person who keeps or houses hens on his or her property shall comply with the following requirements:
 - (1) Must obtain a permit pursuant to subsection (a) of this section.
 - (2) Keep no more than four hens.
 - (3) The principal use of the person's property must be for a single-family dwelling or two-family dwelling.
 - (4) No person shall keep a male chicken (rooster).
 - (5) No person shall slaughter any hens.
 - (6) Any person keeping hens shall remain subject to public nuisance animal controls codified in [section 14-11](#) of the Ypsilanti Code of Ordinances.
 - (7) The hens shall be provided with a covered enclosure and must be kept in the covered enclosure or a fenced enclosure at all times. Fenced enclosures are subject to the provisions of [section 122-714](#) of the Code of Ordinances.
 - (8) A person shall keep hens in the backyard only. For this subsection, "backyard" means the portion of a lot enclosed by the property's rear lot line and the side lot lines to the points where the side lot lines

intersect with an imaginary line established by the rear of the single-family or two-family structure and extending to the side lot lines.

- (9) All enclosures for the keeping of hens shall be constructed, repaired and maintained in a manner to prevent rats, mice, or other rodents from being harbored underneath, within, or within the walls of the enclosure.
 - (10) All feed and other items associated with the keeping of hens that are likely to attract or to become infested shall be so protected so as to prevent rats, mice, or other rodents from gaining access to or coming into contact with them.
 - (11) Chicken coops and enclosures shall be at least 20 feet from any residential structure not owned by the permittee unless written permission is granted from the owner of the affected residential structure.
- (d) If the requirements of subsection (c) are not fully complied with, the city may revoke any permit granted under this section and/or initiate prosecution for a civil infraction violation.

(Ord. No. 1100, § 1, 7-21-2009; Ord. No. 1118, § 1, 6-1-2010)

9:38. - Domestic animals and fowl.

- (1) No person shall keep or house any animals or domestic fowl within the City except dogs, cats, rabbits, canaries or small animals commonly classified as pets which are customarily kept or housed inside dwellings as household pets.
- (2) Subsection (1) shall not apply to animals or fowl that are kept or housed at city park facilities for exhibition.
- (3) Subsection (1) shall not apply to the keeping of chickens in compliance with all requirements of Section 9:42
- (4) Nothing in this Chapter shall prohibit the City or a third party from bringing a nuisance action based on the keeping of animals.

Ord. No. 2005-033, Code Ann. 18-28.5, 4-13-05 (Ord. No. 08-13, § 1 6-2-08, eff. 8-7-08)

9:42. - Keeping of chickens.

- (1) Any person who keeps chickens in the City of Ann Arbor shall obtain a permit from the City prior to acquiring the chickens. No permit shall be issued to a person, by the City, and no chickens shall be allowed to be kept unless the owners of all residentially zoned adjacent properties (as defined below in subsection (3)j.) consent in writing to the permit and this consent is presented along with an application for a permit. Written statements waiving the distance requirement in subsection (3) below shall also be submitted at the time of application and become a part of the permit if issued. Application shall be made to the City Clerk and the fee for the permit shall be as determined by Council resolution.

Permits expire and become invalid 5 years after the date of issuance. A person who wishes to continue keeping chickens shall have obtained a new permit on or before the expiration date of the previous permit. Application for a new permit shall be pursuant to the procedures and requirements that are applicable at the time the person applies for a new permit.

- (2) Notwithstanding the issuance of a permit by the City, private restrictions on the use of property shall remain enforceable and take precedence over a permit. Private restrictions include but are not limited to deed restrictions, condominium master deed restrictions, neighborhood association by-laws, and covenant deeds. A permit issued to a person whose property is subject to private restrictions that prohibit the keeping of chickens is void. The interpretation and enforcement of the private restriction is the sole responsibility of the private parties involved.
- (3) A person who keeps or houses chickens on his or her property shall comply with all of the following requirements:
 - a. Have been issued the permit required under subsection (1) of this section.
 - b. Keep no more than 4 chickens.
 - c. The principal use of the person's property is for a single-family dwelling or two-family dwelling.
 - d. No person shall keep any rooster.
 - e. No person shall slaughter any chickens.
 - f. The chickens shall be provided with a covered enclosure and must be kept in the covered enclosure or a fenced enclosure at all times. Fenced enclosures are subject to all provisions of Chapter 104 (Fences).
 - g. A person shall not keep chickens in any location on the property other than in the backyard. For purposes of this section, "backyard" means that portion of a lot enclosed by the property's rear lot line and the side lot lines to the points where the side lot lines intersect with an imaginary line established by the rear of the single-family or two-family structure and extending to the side lot lines.
 - h. No covered enclosure or fenced enclosure shall be located closer than 10 feet to any property line of an adjacent property;
 - i. All enclosures for the keeping of chickens shall be so constructed or repaired as to prevent rats, mice, or other rodents from being harbored underneath, within, or within the walls of the enclosure. A covered enclosure or fenced enclosure shall not be located closer than 40 feet to any residential structure on an adjacent property provided, however, this requirement can be waived as follows:
 - (i) If the principal use of applicant's property is for a single-family dwelling, to obtain such a waiver the applicant shall present at the time of applying for a permit the written statements of all adjacent landowners that there is no objection to the issuance of the permit.
 - (ii) If the principal use of the applicant's property is for a two-family dwelling, to obtain such a waiver the applicant shall present at the time of applying for a permit the written statements of all adjacent landowners and of the occupants of the other dwelling stating that there is no objection to the issuance of the permit.
 - j.

For purposes of this section, adjacent property means all parcels of property that the applicant's property comes into contact with at 1 or more points, except for parcels that are legally adjacent to but are in fact separated from the applicant's property by a public or private street.

- k. All enclosures for the keeping of chickens shall be so constructed or repaired as to prevent rats, mice, or other rodents from being harbored underneath, within, or within the walls of the enclosure.
 - l. All feed and other items associated with the keeping of chickens that are likely to attract or to become infested with or infected by rats, mice, or other rodents shall be protected so as to prevent rats, mice, or other rodents from gaining access to or coming into contact with them.
 - m. If the above requirements are not complied with, the City may revoke any permit granted under this section and/or initiate prosecution for a civil infraction violation.
- (4) A person who has been issued a permit shall submit it for examination upon demand by any Police Officer or Code Enforcement Officer.

(Ord. 13-01, § 2, 01-02-03, 04-05-06)

Sec. 5-1. - Keeping such as to create disturbing noises prohibited.

The keeping of any animal or fowl which by causing frequent or long continued noise shall disturb the comfort or repose of any persons in the vicinity is prohibited.

(Ord. No. 30; § 2-10-54; Ord. No. 573, § 1, 10-5-70)

Cross reference—Noise generally, §§ 2-96—2-106.

Sec. 5-2. - Livestock running at large prohibited.

It shall be unlawful for any person to permit any horse, mule, mare or colt, ox, steer, cow, calf, hog, shoat, pig, boar or sheep, or any other such animal, excluding cats and dogs, owned by them, including chickens or other domestic fowl, in their possession, or under their control to run at large or pasture the same, on any of the public streets, highways, public places or commons, within the corporate limits of the city.

(Ord. No. 1, § 1, 6-10-18; Ord. No. 3, § 1, 6-10-18)

Sec. 5-3. - Sale of baby chicks, rabbits, ducklings, etc., prohibited; exceptions; seizure.

- (a) It shall be unlawful for any person to sell, or offer for sale, barter or give away baby chicks, rabbits, ducklings or other fowl as pets or novelties, whether or not dyed, colored or otherwise artificially treated. This section shall not be construed to prohibit the display or sale of natural chicks or ducklings in proper brooder facilities by hatcheries or stores engaged in the business of selling the same to be raised for commercial purposes. Nor shall this section be construed to prohibit the display or sale of rabbits in a licensed pet store.
- (b) In the case of any violation of this section, it shall be the duty of any fully appointed police officer, or the dog warden, to seize such fowl or pets and provide the necessary care and attention, and such fowl or pets shall not be returned until all expenses for such care and attention shall have been paid.

(Ord. No. 1, § 1, 6-10-18; Ord. No. 3, § 1, 6-10-18)

Cross reference—Business regulations and licenses generally, Ch. 7.

Chapter 7. ANIMALS AND FOWL

[HISTORY: Adopted by the City Commission of the City of Kalamazoo 10-6-1997 by Ord. No. 1641. Editor's Note: This ordinance repealed former Ch. 7, derived from P&L Code §§ PL801 through PL818, as amended. Amendments noted where applicable.]

GENERAL REFERENCES

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

Appearance tickets — See § 1-8.1.

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

Noisy animals and fowl — See § 21-15.

Nuisances generally — See § 22-3 et seq.

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

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

STATUTORY REFERENCES

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

Article I. In General

§ 7-1. Purpose and intent.

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

§ 7-2. Enforcement.

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

§ 7-3. Definitions.

[Amended 11-15-2004 by Ord. No. 1779]When used in this chapter, the following words and terms shall mean:

ANIMAL

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

AT LARGE

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

DOMESTIC ANIMAL

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

EXOTIC/WILD ANIMAL

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

NUISANCE

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

OWNER

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

VICIOUS AND DANGEROUS ANIMAL

Any animal that attacks, bites or physically injures a human being or other animal without provocation.

§ 7-4. Permit to keep pet swine.

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

§ 7-5. Keeping of rabbits and poultry.

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

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

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

§ 7-7. Exotic/wild animals.

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

§ 7-8. Animals at large.

- A. Subject to the other articles of this chapter, it shall be unlawful for any owner to permit an animal to be at large as deemed in § 7-3, "at large."

B. The City shall not be responsible for damages done by any animal which is found at large as deemed in § 7-3, "at large."

C. Any animal found running at large in the City in violation of this section may be captured and turned over to the custody of Kalamazoo County Animal Control. It shall be the duty of the Public Safety Department or Kalamazoo County Animal Control to take and detain any animal running at large anywhere within the limits of the City as defined in § 7-3, "at large.". The owner of such animal shall be required to pay all charges or costs of such detention as required by law.

§ 7-9. Hunting and trapping.

No person shall hunt or trap wildlife at any time within the City limits, except with the approval of the City Manager or Chief of Public Safety, nor shall any person carrying a firearm or hunting weapon trespass upon the land of another in the City without the landowner's consent. This prohibition shall not apply to the trapping of rats, mice and moles, and shall not apply to the humane live trapping of squirrels, raccoons, chipmunks, and other wild or domestic animals which may be causing damage to property or which constitute a nuisance within a dwelling or building or structure or curtilage within the City. The selling for commercial purposes of such animals which have been trapped or the offering for sale or the keeping for sale for commercial purposes of such animals which have been trapped is prohibited. The disposal of such animals which have been live-trapped shall be to release such animals in the natural habitat of such animals. This prohibition shall not apply to a law enforcement officer when acting to enforce the law or to control or dispose of dangerous or seriously injured wild or domestic animals.

§ 7-10. Combat between animals and humans.

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

§ 7-11. Nuisance.

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

§ 7-12. Dangerous animals.

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

§ 7-13. Abandonment.

[Added 11-15-2004 by Ord. No. 1779] It shall be unlawful for any person to abandon animals within the City.

§ 7-14. (Reserved)

§ 7-15. (Reserved)

§ 7-16. (Reserved)

§ 7-17. (Reserved)

Article II. Dogs

§ 7-18. License and tag.

A. It shall be unlawful for any person to own or keep a dog six months old or older within the City, unless such dog is licensed as required by state law.

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

§ 7-19. Dogs running at large.

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

§ 7-20. Female dogs in heat.

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

§ 7-21. Vicious or dangerous dogs.

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

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

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

§ 7-23. Nuisance.

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

§ 7-24. Limitation on number of dogs.

It shall be unlawful to own, possess, shelter, keep, harbor or permit to remain on or in a dwelling unit as that term is deemed in the City of Kalamazoo Zoning Ordinance (Appendix A of the Kalamazoo City Code) or on the surrounding lot or premises within the City more than three dogs at any one time unless said owner or owners obtains a kennel license pursuant to state law, except that the owner of a female dog which has given birth to puppies may keep the dog and puppies for a period not to exceed three months from the date of birth of the litter. This limitation shall not apply to a veterinarian or a licensed commercial pet shop.

§ 7-25. Dogs in certain public parks.

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

§ 7-26. Impoundment.

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

§ 7-27. Removal/Disposal of dog feces.

[Added 6-4-2007 by Ord. No. 1828]

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

§ 7-28. (Reserved)**§ 7-29. (Reserved)****§ 7-30. (Reserved)****§ 7-31. (Reserved)****§ 7-32. (Reserved)****§ 7-33. (Reserved)****Article III. Cats****§ 7-34. Keeping cats in a greater number than can be cared for in a sanitary and proper manner.**

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

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South Lyon Historical Commission Meeting Thursday, March 1, 2012 Minutes

Members Present: Bob Tremitiere, Larry Ledbetter, Beth Pfiles, Phil Weipert, Jack Renwick*

Members Absent: Roger Heiple, Norm Somers,

Others Present: Eagle Scout candidate Zachary Velthoven, his parents Tony and Fran

The meeting commenced at 7:40. A quorum was declared by President Jack Renwick

The February minutes and March agenda were approved (Larry moved, Beth seconded).

Gail Memorial: Larry introduced Scout Zachary Velthoven who is pursuing Eagle rank and is interested in the memorial as a project. Larry showed us a stacked stone base which was well liked. It can be laid on a gravel bed (no concrete footing required) and is glued together, making it do-able for a small crew and relatively vandal resistant. Larry also showed us several sundials and a possible plaque. The Commissioners liked a 12" sundial with a dragonfly on it. We felt that with Gail's interest in nature, this would be appropriate. Larry stressed that we should get it done prior to the May 12 volunteer day. Jack moved and Phil seconded that we go with the stone base. Approved. Bob moved and Beth seconded that we go with the dragonfly dial. Approved. Larry also presented a sketch of a possible placement of the memorial in the triangular garden bed in the main path. It was agreed that for the sundial to read right, the "12" on the dial must face north. Therefore, the memorial would be viewed from the south. Larry proposed a short walk leading up to the memorial. There was also some discussion of replacing the wood garden border with stone or brick. There was no action taken on the path or the border. We will choose a plaque a little later, when we have a better idea of where it should go. One possible plaque would actually have a photo of Gail etched into it, as well as some words. The Commission previously agreed that a statement like "Gail Smolarz – A lifetime of community service" would be appropriate.

Depot Wainscote Replacement: Larry presented the idea of replacing the wainscote as a volunteer project with Julie Zemke, and she was in favor. Larry still needs to talk to Mr. Kessler at Oak Point Church to see if he will do it. Bob said that we need to know by the May meeting if this would happen. If not, we need to get estimates to get it done before the end of this budget year (June 30). If it is a volunteer project, we need to obtain the material, cut and prime it prior to the date. Jack will pursue getting a bid for the job in case the volunteers aren't going to do it. After Bob returns from his trip next week, he and Jack will get together and measure what will be needed.

Paint Exterior of School: Bob has called Dan Hanson and Kevin Kopko and asked them to submit bids to paint the building and replace a few rotted boards on the right side. He initially asked them not to include painting the front and rear decks, but the Commission thought that should be included. Bob will call them back and ask them to include it.

Replacement Trees: Larry said that the DPW will remove the trees whenever we want, but that they could damage the hostas that are there. We agreed that the hostas would probably survive, but we will take a look at the plantings in the area and make a decision prior to them being removed. Phil will ask Gary Childs for recommendations for replacements.

Budget: Bob reported that the budget has been turned in to Julie. There are no changes from what was presented at the last meeting except that the parking lot paving was removed. The city maintains a priority list of paving jobs, so Bob turned over the repaving estimate to Bob Martin.

Spring Cleanup Projects: This is the list of hoped for projects, which will depend to some extent on the number of volunteers that we get and their skill levels:

-**School Porch Railing (loose).** Larry said that he will repair it.

-**Wainscote replacement**

-**Flagpole painting.** Larry can get a piece of equipment from the Tube Mill to safely lower it for painting.

- Garden Chores.** We will ask Linda what chores need to be done and what materials we need
- Replace missing lattice on deck.**

New Business:

- Jack reported that vandals have already done damage to the new energy efficient flood lights. Fortunately, the police have good video of at least one of the culprits and will take action.
- The DPW asked if the split rail fencing could be taken down, since it must be trimmed by hand. Bob recalled that the fence was originally put up partially to keep cars off the grass. The Commission requests that the fence remain in place.
- The wedding coordinator suggested that the driveway gates be replaced with a rope. However, the gates were originally installed because a previous coordinator had trouble putting up the rope and the heavy sign. The Commission favors leaving the gates (a former Eagle Scout project) in place. Larry will check the functionality of the gates.

Business being concluded, Larry motioned to adjourn, Jack seconded, and the motion passed. Adjourned at 8:31.

Minutes recorded by Bob Tremitiere, Secretary

Submitted by Jack Renwick, President

* Snowbird who doesn't know when Winter ends in Michigan